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Training China's Early Modern Lawyers: Soochow University Law School

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I. INTRODUCTION

Late imperial China produced neither a private, independent legal profession¹ nor a formal program for training legal specialists.² The

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* Lecturer in Law, University of Hong Kong. This article is part of a larger project on the history of Soochow Law School and the role its graduates have played in the development of the modern Chinese legal profession. Earlier versions were presented as papers at the American Society for Legal History 1989 Annual Meeting, the Association for Asian Studies 1990 Annual Meeting and the 1992 Symposium on Civil Society in East Asian Countries, and have appeared in Alison W. Conner, *Legal Education during the Republican Period, 19 Republican China* 84 (1993) and Alison E.W. Conner, *Soochow Law School and the Shanghai Bar*, 23 *H.K.L.J.* 395 (1993). Research for this article was conducted with the assistance of research grants from the Language and Research Program (jointly sponsored by the Committee on Scientific and Scholarly Cooperation with the U.S., the Academia Sinica, the Inter-University Program and the Luce Foundation) and from the Committee on Scholarly Communication with China; their support is gratefully acknowledged. I would also like to thank Wejen Chang, Jiang Xiaowei, Zhao Yuesheng, Tian Jigeng, the staff of the Shanghai Higher Education History Materials Center, the Soochow Alumni Association of Shanghai, and the teachers and graduates of both the Comparative Law School of China and the Soochow University College of Law for the information they kindly provided me. I am also grateful to Jerome A. Cohen, R. Randle Edwards, William C. Jones, Richard S. Kay and Stephen B. Nathanson for comments and suggestions on an earlier draft of this article, and to Albert Lam Kwok Ming for the research assistance noted below.

1. Most scholars agree on this point. See, e.g., Sybille van der Sprenkel, *Legal Institutions in Manchu China: A Sociological Analysis* 1 (1962); Derk Bodde and Clarence Morris, *Law in Imperial China: Exemplified by 190 Ch'ing Dynasty Cases* 4, 113, 180 (1973). This view is apparently held on both sides of the Taiwan straits. Zhan Hengju, *Zhongguo Jindai Fazhishi* [Modern Chinese Legal History] 292-93 (1973); Chen Haisheng, *Jiu Zhongguo de Lushi he Lushi Zhidu* [Lawyers and the Lawyer System of Old China], in *Fazhi Ribao* [Legal System Daily], Mar. 2, 1989, at 3.

introduction of legal and educational reforms in the closing years of the Qing dynasty (1644-1911), however, led to the establishment of schools offering courses in “law and government,” not only in the capital but also throughout the provinces. Their main purpose was to train officials for judicial and tax positions while providing an alternative to the traditional examination system.³ Such law and government schools soon outnumbered other new schools and attracted the most students because they offered several fields of study, the government permitted them to be established privately, and legal talent was seen as necessary for the proposed constitutional government. Consequently, according to one source, they became the core of higher education at that time.⁴

But the real development of modern legal education—and of the legal profession itself—came during the Republican period (1912-49) with the founding of more professionally oriented schools and the enactment of legislation officially recognizing private lawyers.⁵ The years from 1912 through 1927 in particular represented an era of relative freedom for many schools. The increase in the number of educational institutions was arguably facilitated by the weakness of the central government, which also made it possible for a more autonomous and

2. For a discussion of traditional legal education, see Wejen Chang, *Qingdai de Faxue Jiaoyu* [Legal Education in the Qing Dynasty], 18 *Faxue Luncong* [Collected Law Essays] 1 (1988).

3. Ministry of Education Yearbook Compilation Committee, *Diyici Zhongguo Jiaoyu Nianjian* [First China Education Yearbook] 465-68 (Zhuanji Chubanshe 1971) (1934) [hereinafter *Education Yearbook*]; 2 *Xuebu Guanbao* [Official Reports of the Department of Education] 20-21 (1907); Chuzo Ichiko, *Political and Institutional Reform, 1901-11*, in 11 *The Cambridge History of China* 375, 376-83 (John K. Fairbank and Kwang-Ching Liu eds., 1978). But the Qing authorities were “extremely cautious” about anything new and concerned that the wrong lessons (e.g., “people’s rights or freedom”) not be learned, even if it was necessary to study foreign law and government. *Id.* at 381.

4. *Education Yearbook*, *supra* note 3, at 465-68. See also Joseph K. Cheng, *Chinese Law in Transition: The Late Ch’ing Law Reform 1901-1911*, at 143-54 (1976) (unpublished Ph.D. dissertation, Brown University). Thousands of Chinese students were also sent abroad during this period, particularly to Japan, where large numbers of them studied law. Marius Jansen, *Japan and the Chinese Revolution of 1911*, in 11 *The Cambridge History of China*, *supra* note 3, at 339, 348-52.

5. Cheng, *supra* note 4, at 153-54. Many texts state that the “lawyer system” was adopted around 1901, and some provisions of the Qing 1910 drafts of criminal and civil procedure refer to lawyers or legal representatives. Zhan, *supra* note 1, at 293; Wu Lei, *Zhongguo Sifa Zhidu* [The Chinese Judicial System] 354 (1988). But the first general regulations on lawyers were not enacted until September 16, 1912. *Lushi Zhanxing Zhangcheng* [Provisional Regulations on Lawyers], 5(1) *Zhengfu Gongbao* [Government Gazette] 108 (1912); Liao Yuren, *Zhonghua Minguo Xianxing Sifa Zhidu* [The Current Judicial System of the Republic of China] 248-57, 949 ff. (1982).

diverse system to develop.⁶ Many more law colleges were founded during this period; there were already forty-nine by 1915-16, and many students continued to enroll because it seemed an easy route to becoming officials in the new government.⁷

One of the most influential of these new institutions was the Soochow University Law School, whose graduates still stress its special character as well as the high quality of its training. Soochow was the only law school sponsored by the American Christian missionary movement (whose separate professional schools were otherwise founded to teach medicine or theology).⁸ Though not the only school to teach foreign law,⁹ Soochow alone specialized in “comparative law” and maintained an important place in its curriculum for such study long after the promulgation of the basic Chinese codes. It was, moreover, the only law school to offer a formal program in “Anglo-American law” (*Yingmei fa*), to use the case method of teaching and to maintain close ties with American lawyers, teachers and law schools.

In part because of its unique character, the school contributed to the emergence of a modern legal profession in China during the Republican

6. E-Tu Zen Sun, *The Growth of the Academic Community 1912-1949*, in 13 *The Cambridge History of China*, supra note 3, at 361, 367 (John K. Fairbank and Albert Feuerwerker eds.). The government's attitude was not encouraging, however. An educational convention in 1922 even recommended that the government law colleges be abolished because they produced “disorderly graduates” or “case-multiplying lawyers.” W.W. Blume, *Legal Education in China*, 1 *China L. Rev.* 305, 308 (1923).

7. Statistics vary, depending on the source. Another compilation shows a total of forty-two “law and government” schools in 1915, down from a high of sixty-four in 1912. *Education Yearbook*, supra note 3, at 469-70. The latter's charts also show real fluctuations from year to year, but a large number of these schools certainly operated during this period.

8. Earl H. Cressy, *Christian Higher Education in China: A Study for the Year 1925-26*, at 6-9 (1928). For a time Yenching University also had a law department (not a separate law school), but it was established for the purpose of meeting the government's requirement of three colleges to constitute a university. Jessie G. Lutz, *China and the Christian Colleges 1850-1950*, at 313 (1971). Although Shanghai's St. John's University (*Shengyuehan Daxue*) also considered establishing a law school, Soochow founded its school first and the St. John's administration did not think there was room in Shanghai for another such institution. In the 1920s, the St. John's authorities recommended cooperation with Soochow in the management of a law school in Shanghai, but the plan was never implemented and Soochow continued to run the Law School by itself. Mary Lamberton, *St. John's University, Shanghai 1879-1951*, at 63, 74, 111 (1955).

9. Shanghai's Aurora University (*Zhendun Daxue*), whose law faculty opened a few years before Soochow's in 1911, taught French as well as Chinese law. *Université L'Aurore, Université L'Aurore, Shanghai 63-88* (1935).

period. Though many institutions taught law in Shanghai,¹⁰ Soochow held a pre-eminent position: it was the best and most famous law school in south China. Its graduates played prominent roles in the legal profession and in civic life during the 1920s and 1930s, and almost anyone of importance in Shanghai's legal world was affiliated with the school at one time or another. In contrast with many other law schools, Soochow produced lawyers rather than legal officials, and through its emphasis on ethics and standards as well as professional competence prepared them to take an active part in both political and commercial life.

Now that legal education has been re-established in a major way and over 60,000 lawyers are engaged in practice in the People's Republic of China (the "PRC"),¹¹ Soochow's approach and experience may once again be worthy of emulation. The purpose of this article, therefore, is to analyze the reasons for Soochow's early prominence and its general significance in the development of Chinese legal education. The article will examine the school's history, educational program and goals, faculty and students, and its most important contributions. In particular, it will focus on the school's students and their backgrounds: Why were they attracted to Soochow and the new legal profession? What was most valuable about their training?

10. At least eight institutions, both public and private, taught law in Shanghai during the thirties, including Fudan University, Aurora University, the Shanghai College of Law and Political Science and the Shanghai College of Law. Shanghai Shi Tongzhi Guan [Shanghai Municipal Encyclopedia Office], Shanghai Shi Nianjian [Greater Shanghai Annual], at N17-19 (1935) [hereinafter Greater Shanghai Annual]. For more on the two Shanghai law colleges, which were both independent schools of law, see Shanghai Gaodeng Xuexiao Yangge [History of Shanghai Schools of Higher Education] 192-93, 201-07 (Xin Fuliang and Zhao Andong eds., 1992) [hereinafter History of Shanghai Schools].

11. Timothy A. Gelatt and Frederick E. Snyder, *Legal Education in China: Training for a New Era*, 1 *China L. Rep.* 41 (1980); Timothy A. Gelatt, *Lawyers in China: The Past Decade and Beyond*, 23 *N.Y.U. J. Int'l L. & Pol.* 751 (1991); Chang Hong, *Capital gets first private law office*, *China Daily*, Apr. 18, 1994, at 3; Liu Weiling, *Lawyers, lifted by boom, find success and status*, *China Daily (Bus. Wkly.)*, May 29-June 4, 1994, at 1.

II. THE LAW SCHOOL, 1915-52

Soochow University (*Dongwu Daxue*, the “University”) was established in 1900 in the city of Suzhou (i.e., Soochow)¹² by American missionaries from the Methodist Episcopal Church South.¹³ The University’s law school was founded in 1915 by Charles Rankin, a lawyer then teaching political science at the University. When he was sent in 1914 to head the University’s second middle school in nearby Shanghai, he was given the freedom to explore other educational possibilities, provided he did not involve the University in any “unauthorized expenditure.” What he found was a “God-given opportunity to render an outstanding service to the young Republic”¹⁴ and in Shanghai (China’s most important commercial and industrial center) all the resources with which to provide it. Rankin’s idea was to establish a law department for Shanghai students by using the facilities of the University’s middle school at night and by recruiting lawyers and judges from Shanghai’s foreign concessions (particularly the International Settlement) as teachers.¹⁵

12. The University continues to use the older romanization of the city in its English name, not the official *pinyin* version now used in the PRC.

13. For a general history of the University, see W.B. Nance, *Soochow University* (1956); Chen Tingrui (D.S. Chen), *Sili Dongwu Daxue* [Soochow University], in *Zhonghua Minguo Daxue Zhi* [University Annals of the Republic of China] 153-55 (Zhang Qiyun ed., 1953). The University was one of the thirteen Protestant colleges in China under the general direction of the Associated Boards for Christian Colleges in China (later known as the United Board for Christian Colleges in China). See Lutz, *supra* note 8, for a comprehensive history of those colleges, including the University.

14. Nance, *supra* note 13, at 71.

15. Under the terms of the nineteenth-century “unequal treaties” between China and the Western powers, foreigners had been granted extraterritorial privileges (the right to be tried in consular courts under their own laws rather than by the Chinese legal system) and territorial “concessions” (i.e., large areas of land leased in perpetuity at low rates) in the treaty ports along the coast of China. John K. Fairbank et al., *East Asia: The Modern Transformation* 144-45, 340-42 (1973). Shanghai was effectively divided into three sections, consisting of the Chinese-administered city, the French Concession and the International Settlement. The latter, by far the larger of the two foreign concessions, had been formed from the merger of the British and American areas in 1863. *Id.* at 340. British and American lawyers based in Shanghai practiced before (or served as judges in) the foreign consular courts in Shanghai, and until its replacement in 1927, the Shanghai Mixed Court as well. The United States Court for China, for example, was created in 1906 to replace consular staff with professional legal experts; it ordinarily sat in Shanghai and in practice held the same position as a United States District Court, with appeals to the Circuit Court of Appeals for the Ninth Circuit in San Francisco. Its jurisdiction covered probate matters, matters relating to marriage and divorce of Americans, and the activities of U.S. corporations in China. G.W. Keeton, 2 *The Development of Extraterritoriality in China* 78-80, 126-31 (1928); William

As a result of Rankin's efforts, the Soochow University Law School, also known as the "Comparative Law School of China" (the "CLS" or the "Law School"),¹⁶ opened in fall 1915 with its first class of seven students and more than ten instructors.¹⁷ The scheme was a truly inspired one, as the school's later history was to show. Rankin's religious fundamentalism led to early difficulties for the CLS, however; according to some of its supporters, his "narrow attitude continued to cause trouble." But the arrival of W.W. Blume from Michigan, who served as the Law School's second dean from 1921 until 1927, "saved the day" and the CLS then began a "steady approach toward the ideals and standards of the best American Law Schools."¹⁸

During the late 1920s and 1930s, the Law School entered a period of rapid growth in terms of its students, faculty and prestige. In 1924, the school was able to move into its own Kunshan (Quinsan) Road classrooms, offices and dormitories,¹⁹ and it began serious efforts to build up its library, which by 1935 had grown to "more than 20,000 volumes purely in law subjects" and was proudly described as "one of the best in the Far East."²⁰ In 1926, the CLS became one of the few

C. Johnstone, Jr., *The Shanghai Problem* 159 (1937). Great Britain exercised jurisdiction over its nationals in all civil and criminal matters through its provincial courts and the Supreme Court, which normally sat in Shanghai. Keeton, *supra*, at 77-78. In addition to the foreign courts, the International Settlement was also served by the Shanghai Mixed Court, established in 1864. A Chinese magistrate presided but a foreign consular "assessor" sat with him as a co-judge, sharing the judicial function. The Mixed Court used Western judicial procedure and handled cases between Chinese and cases in which Chinese were defendants. Fairbank, *supra*, at 341. For a detailed treatment of the Mixed Court, see A.M. Kotenev, *Shanghai: Its Mixed Court and Council* (1925).

16. The Law School was originally known as the *Dongwu Daxue Fake* (Law Department of Soochow University). In 1927 the school changed its name to *Dongwu Daxue Falu Xueyuan* (Soochow Law School), and in 1935 to *Dongwu Daxue Faxueyuan* (Soochow Law School). *History of Shanghai Schools*, *supra* note 10, at 149-52. Charles Lobingier, whom Rankin had consulted about his idea for a law school, suggested the "Comparative Law School" as part of its English name, and this title was used throughout the school's life on the mainland. Charles S. Lobingier, *Legal Education in Twentieth Century China*, *Law. Guild Rev.*, July-Aug. 1944, at 1, 2.

17. Nance, *supra* note 13, at 72.

18. Lobingier, *supra* note 16, at 2-3. Lobingier, a Roman and comparative law specialist, was appointed Judge of the U.S. Court for China in 1914 and later organized the Far Eastern American Bar Association. He was instrumental in organizing support for the new school and helped to plan its courses and draft its early rules and regulations. W.W. Blume, *Judge Lobingier (An Appreciation)*, 1 *China L. Rev.* 264, 265 (1923).

19. Nance, *supra* note 13, at 78.

20. 8 *China L. Rev.* inside cover (1935). According to Dean Sheng, the library was better than anything to be found in Manila or Tokyo. During the war with Japan, CLS students and teachers managed to preserve the library's books by taking them away and hiding them, and it was a "great

law schools in China to establish a graduate program, offering students (mostly its own graduates) the opportunity to earn an LL.M. without overseas study. The Law School's classes proved increasingly popular, and in 1934 it graduated eighty-four students, the largest class to that date.²¹ When the Nationalist government established by Chiang Kai-shek attempted to restrict the number of students in "non-essential" courses like law,²² the CLS opened an accounting section and thereby kept overall student numbers to a "reasonable" level.²³

During these growth years, the Law School became increasingly independent of its parent university in Suzhou, financially and otherwise, and at one point its students outnumbered those of the University.²⁴ But the school's further expansion was curtailed by the difficulties of the central government in Nanjing and the widening Japanese encroachment in China during the 1930s. After the outbreak of the Sino-Japanese War in 1937, the Law School took refuge south of the Suzhou Creek in Shanghai's International Settlement, and law classes were conducted in a series of temporary venues, including the Moore Memorial Church. At the beginning of the Pacific War, however, the Japanese occupied the International Settlement, and by early 1942 the Chinese government had suspended the operation of registered universities like Soochow in the

pity" when the library was broken up in 1952. Interview in Shanghai (July 30, 1990). The Law School's files support his claims for the library, particularly documents relating to the school's closure, Shanghai Municipal Archives, Q245-231 to Q245-234. For an American comparison, the Association of American Law Schools (the AALS) resolved in 1932 that all member schools should have at least 10,000 volumes in their libraries and spend at least \$2,000 per year to maintain them. Robert Stevens, *Law School: Legal Education in America from the 1850s to the 1980s*, at 176 (1983).

21. According to a list [hereinafter 1946 List] of CLS graduates from 1918-1947 contained in the 1946 student yearbook. *Soochow University School of Law, The Woolsack* [no pagination] (1946) [hereinafter 1946 Yearbook].

22. A 1932 regulation prohibited universities from enrolling more students in arts and social sciences than in science and engineering, subjects the government considered more useful to national development. Within a few years there was a marked drop in the number of law students, from 11,500 in 1929 to a low of around 7,000 in 1938. The number of students admitted to law departments, which had formerly ranked first in terms of enrollment, fell to fourth place—a "satisfactory result" in the government's view. *Education Yearbook*, supra note 3, at 425-27; Cressy, supra note 8, at 24-27.

23. Nance, supra note 13, at 83.

24. In 1925, for example, the Law School had almost as many students as the University (146 and 195 respectively), and in 1930 the Law School enrolled 594 students whereas the University had only 450. Cressy, supra note 8, at 9; Lutz, supra note 8, at 184.

Japanese-occupied areas.²⁵ Nevertheless, loyal members of the Law School managed to operate the school informally in Shanghai under a new name, the *Zhongguo Bijiaofa Xuexiao* (the “Comparative Law School of China”).²⁶ At the same time, some Soochow students and faculty had retreated inland to the wartime capital of Chongqing, and they revived the CLS there as well, at the government’s request and in association with the Shanghai Baptist College (*Hujiang Daxue*) and Hangchow Christian College (*Zhijiang Daxue*).²⁷ In 1945, at the end of World War II, the Law School officially reopened in Shanghai in 1945 and, despite heavy damage sustained by its facilities during the many years of disruption, returned to its Kunshan Road campus the next year; graduates of both wartime branches were recognized and received their diplomas at the school’s 1946 commencement.²⁸

After the war, both the Law School administration in Shanghai and its mission board officers in the United States assumed that the CLS would resume normal operations, perhaps as a reorganized and independent law school.²⁹ A new judicial section to train judges was approved by the government, the graduate division was restored, and student enrollment exceeded its highest pre-war levels.³⁰ But the 1949 Communist victory prevented the realization of the school’s plans. Although the CLS continued to operate for a few more years, the school was closed during the PRC’s 1952-53 reorganization of higher education; its library was broken up and the books redistributed, and its students

25. Nance, *supra* note 13, at 108, 113; 1946 Yearbook, *supra* note 21, at sections “1937 Fall-1941 Winter,” “1942 Spring-1946 Spring.”

26. This translation of its English name had previously never been used in Chinese but easily identified the school to anyone familiar with the institution.

27. Nance, *supra* note 13, at 114-15. It was known as the “Associated College of Law and Commerce of Soochow University and Shanghai Baptist College” (*Dongwu, Hujiang Lianhe Fashang Xueyuan*). Shanghai Baptist College and Hangchow Christian College were also among the thirteen Protestant colleges. 1946 Yearbook, *supra* note 21, at section “1942 Spring-1946 Spring.” For a description of the migration of Chinese universities from the coastal provinces to the interior, see Chinese Ministry of Information, *China Handbook 1937-1944*, at 240 (Ch’eng Wen Publishing Company 1971) (1944).

28. Nance, *supra* note 13, at 130; Minutes of Board of Trustees meeting (Jan. 26, 1946), Shanghai Municipal Archives, Q245-55.

29. According to Soochow University files, United Board for Christian Higher Education in Asia Archives, Day Missions Library, Yale University, No. 271/4315 [hereinafter United Board Archives]. The proposal was for the merger of St. John’s, Hangchow Christian and Soochow into a “China Christian University,” with Soochow to keep the Law School and its name. 1946 Yearbook, *supra* note 21, at section “Fall 1946”; news reports, 1940s scrapbook, Shanghai Municipal Archives, Q245-268.

30. History of Shanghai Schools, *supra* note 10, at 151.

and teachers were reassigned.³¹ Although the school was transplanted to (and has flourished in) Taiwan, the class of 1952 proved to be the last ever to graduate from Shanghai's Comparative Law School of China.

III. THE LAW SCHOOL'S EDUCATIONAL MISSION

A. *Comparative Law*

The most fundamental task for the CLS (as for other law schools of the time) was the definition of the appropriate goals or purposes of legal education in China. When the Law School was founded in 1915, China had neither promulgated its basic codes nor fully established its new legal system.³² Writing a few years later, in 1923, Dean Blume saw three main problems facing law schools in China: the extremely low academic standards, the lack of legal ethics and the difficulty of providing a suitable education for law students.³³ These problems continued to be of concern to the CLS throughout the twenties and thirties, and the solutions it adopted contributed to the influence of both the school and its graduates in the profession.

31. China Handbook Editorial Committee, Education and Science 16 (1983). Lutz, *supra* note 8, at 445-461, 477, 481, describes the reorganization process and the resulting closure of the mission colleges, including Soochow. Most of the Law School's library books went to the newly established East China Institute of Politics and Law (*Huadong Zhengfa Xueyuan*); law students and many teachers were also assigned there, while accounting students were sent to the Shanghai Institute of Finance and Economics (*Shanghai Caizheng Jingji Xueyuan*). Documents relating to the school's closure, Shanghai Municipal Archives, Q245-231 to Q245-234. The main classroom and office building at 146 Kunshan Road is still standing and until recently was still being used as classrooms and offices by a division of the Shanghai University of Finance and Economics.

32. Serious efforts at law drafting began in 1904, and as a result a criminal code (including civil as well as criminal matters) was promulgated and a new court system established by two organic laws at the end of the Qing dynasty. Both were adopted by the Republican government and continued with some modifications after 1912. Other legislation was enacted during the 1910s and early 1920s, but the most important laws, including the Civil Code and a new Criminal Code, did not appear until 1929-36. Some of the main enactments, based on civil law models, were: the Criminal Code (1935), the Code of Civil Procedure (1935), the Code of Criminal Procedure (1935), the Civil Code (1929), the Law of Insurance (1929), Company Law (1929), Maritime Law (1929), Bankruptcy Law (1935), Negotiable Instruments Law (1929) and Trademark Law (1936). Jyh-pin Fa, *Early 20th-Century Law Reform in China* (Hungdah Chiu ed.), in *Contemporary Republic of China: The Taiwan Experience 1950-1980*, at 287-90 (James C. Hsiung ed., 2d ed. 1983); Wang Chung-Hui, *Law Reform in China 9-13* (1919). Early efforts to establish a legal education system therefore preceded the appearance of much of China's modern legislation.

33. Blume, *supra* note 6, at 310-11.

The first, and most basic, problem was simply to provide students with a “legal education suited to the needs of the country.”³⁴ The Law School’s answer was to teach comparative law, an approach it continued throughout its life on the mainland.³⁵ The aim of the CLS, according to an early course bulletin, was “to give the students a thorough mastery of the fundamental principles of the world’s chief legal systems, an important object being to turn out students who can contribute to the making of a new and better jurisprudence for China.”³⁶ Consequently the program of study included a broad range of courses from three different legal systems, with a strong emphasis on Anglo-American law. Students took courses in continental, Anglo-American and Chinese law, the idea being that by studying basic areas of law in the three systems simultaneously they would be able to make their own comparisons.³⁷

In its first few years, the CLS in fact taught very little Chinese law; only in 1923-24 were general Chinese law courses introduced into the curriculum. By 1926, students were taking at least basic courses in China’s family, criminal, procedural, civil and commercial law, but the bulk of their studies remained common law and comparative.³⁸ The enactment of the major Chinese law codes during the late 1920s, however, transformed teaching methods and course content; thereafter, the study of these fundamental laws necessarily constituted the core curriculum for most law schools, including the CLS. At the same time, greater government regulation after 1928 also meant closer supervision of law school coursework. Thus, minimum requirements for all recognized law programs were set, and increasingly enforced, by the central government. By 1930, therefore, CLS course announcements all

34. *Id.* at 311.

35. *Id.* The comparative law approach was initially adopted by other schools besides the CLS, at least during this early period. When Cai Yuanpei, President of National Peking University, for example, was organizing its law department, he decided to use comparative law as a starting point, in order to make the best use of existing resources at a time when the legal system was still undergoing development and revision. Sun, *supra* note 6, at 372. The Law School of National Beiyang University, founded at the end of the nineteenth century in Tianjin, had also begun by teaching Anglo-American law, but it was merged into Peking University in 1918. Yuen-li Liang, *The Harvard Law School, Some of its Chinese Alumni and Some Chinese Law Schools in Relation to It*, 2 *Soochow L. Rev.* 82, 83 (1978). The CLS was unusual, however, in that it continued to teach comparative law and to stress its importance long after the twenties.

36. *Soochow University, Courses and Announcements, 1919-20*, at 31 [hereinafter 1919 Announcement].

37. Nance, *supra* note 13, at 75.

38. According to transcripts contained in student files for 1918-1927 graduates, Shanghai Municipal Archives, Q245-273.

listed standard Chinese law courses taught in Chinese, as well as courses on continental law (on which the new Chinese system was based) and Anglo-American law.³⁹

Nevertheless, the comparative approach was strongly supported by the school's faculty, like Dean Blume's student Shelley Sun (Sun Xiaolou, class of 1927), who taught at the Law School from 1932 to 1939 and also served as associate dean. In his sensible and persuasive *Legal Education*, published in 1935, Sun argued that comparative law study was necessary in an increasingly interconnected world; the development in China of new law based on legal principles (*fali*) might also require a review of foreign developments.⁴⁰ For Sun the ultimate purpose of such study was the improvement of Chinese law and not simply the study of foreign law for its own sake. He thought comparative law was especially important in China, where foreigners had long justified their refusal to abandon extraterritorial privilege by arguing that Chinese law was unsuited to the modern world. If Chinese lawyers studied the law of other countries, Sun argued, they could improve Chinese law and thereby overcome those foreign rationalizations.⁴¹

The Law School therefore maintained its distinctive character even after the promulgation of the Chinese codes and the increased government involvement in legal education. Although other law schools of the day also taught some comparative law courses, few could match the depth or range of the CLS, where such courses still constituted one-third of the curriculum during the thirties.⁴² In 1934, for example, the CLS program was advertised to include courses in (1) Chinese law, (2) modern continental law (French, German, Japanese and Soviet Russian civil law), (3) Anglo-American law, (4) Roman law and (5) both public and private international law.⁴³ Students were required to take not only Roman law and legal Latin but also continental civil law (German or French); comparative electives included world legal history and comparative criminal law.⁴⁴ Since those courses covered past as well as

39. From the early 1920s, the government required that Mandarin be taught in elementary schools, but that policy was difficult to implement in the Shanghai area, where many teachers could not speak it well enough to teach in it. Nance, *supra* note 13, at 154 n.1.

40. Sun Xiaolou, *Falu Jiaoyu* [Legal Education] 74-78 (1935).

41. *Id.* at 71-78.

42. Sheng Zhenwei (Robert C.W. Sheng), *Shijiu Nianlai zhi Dongwu Falu Jiaoyu* [Nineteen Years of Legal Education at Soochow], 7 *Faxue Zazhi* [The Law Journal] 241, 246 (1934).

43. 7 *China L. Rev.* inside cover (1934).

44. Sun, *supra* note 40, at 189, 194, 196.

contemporary law, the school's comparative approach was described by one thirties graduate as being both "vertical" and "horizontal."⁴⁵ The CLS graduate program also stressed the study and research of comparative law.⁴⁶

The Law School's policy of presenting the broadest curriculum possible led to some dubious offerings: a January 1933 notice announced the introduction of a course on "Italian Fascist Corporative Law," which was described as the "fundamental organic law of the Fascist system and a most original and expressive political conception."⁴⁷ But Dean Sheng maintained that the school should be free to teach all kinds of law (including Soviet or fascist law); one did not have to agree with everything taught—"just see what it is and then criticize it if you want to."⁴⁸

When in 1937 the school's program was finally shortened from five to four years, comparative work was still required, and later students continued to be attracted by the school's emphasis on foreign languages and foreign relations.⁴⁹ Even after 1949, the CLS faculty retained their belief in the school's mission to teach comparative law, because it had "always been the specialty of the school." In the first few faculty meetings held after the Communist victory, CLS teachers resolved to continue teaching such courses (though now emphasizing civil rather than common law) and, if possible, to increase their foreign law courses in order to enhance the school's tradition of comparative study.⁵⁰ As late as 1950, the administration still hoped to strengthen the international law program, using the school's past excellence in foreign languages and comparative law as a base. The founding of the new government, they argued, made it even more important to provide international law

45. Interview in Shanghai (Nov. 24, 1992). During the last few years, I have interviewed or had discussions with more than fifty CLS graduates and teachers or others knowledgeable about the school and its graduates. This article cites interviews with twenty-eight graduates and teachers, whom I interviewed in the following places and dates: Taipei, 1987: Sherman J.K. Chang, Wilson Faung, John Y. Kuei, William C.S. Ma, Ruchin Tsar and Yao Chi-Ching; Taipei, 1989: Andrew Lee; Shanghai, 1990: Sheng Zhenwei; Shanghai, 1992-93: Allegiant C. Chen, Fu Jizhong, Hong Shi, Hu Wenzhi, Gu Hao, Lu Shengzu, Pu Zengyuan, Qiu Riqing, Qiu Shaoheng, Sun Miaoxin, Xu Daquan, Xu Junmin, Xu Kaishu, Xu Zhisen, Yu Zhenlong, T.F. Wu and Wu Yaole; Hong Kong, 1993: Huang Yulin, Herbert H.P. Ma and Zhang Mengbai.

46. News clipping, 1940s scrapbook, Shanghai Municipal Archives, Q245-268.

47. Italian Law in China, in *Current Events*, 6 *China L. Rev.* 1, 4 (1933).

48. Interview in Shanghai (July 30, 1990).

49. Interview in Shanghai (Nov. 18, 1992).

50. Minutes of CLS faculty meetings (Aug. 10, 1949 and Aug. 12, 1949), Shanghai Municipal Archives, Q245-123.

training for diplomatic and government officials so that they could better fulfill their duties.⁵¹

Despite the many curriculum revisions, Anglo-American law (like comparative law generally) also retained its special position at the CLS until 1949.⁵² The Law School continued to attach great importance to the required torts and contracts courses, and a wide range of Anglo-American law electives, including agency, company law, trusts, partnership, remedies and equity, was offered each year.⁵³ In one sense, of course, these common law courses were not really taught as comparative law. Classes were still conducted in English, even after Chinese became the main language of instruction at the Law School.⁵⁴ More important, the Anglo-American faculty had all completed at least some study in the United States or England⁵⁵ and they employed the American case method of teaching rather than lecturing: casebooks were used and students were expected to state the case in class with the book firmly closed.⁵⁶ Their “comparative” common law study therefore proved of great practical use to CLS graduates, enabling them to dominate foreign work in the International Settlement because of their

51. Undated discussion of the proposed curriculum, prepared for submission to the East China educational authorities, Shanghai Municipal Archives, Q245-153.

52. The school has always used the term “Anglo-American law” (*yingmei fa*) rather than “common law” (*putong fa*) to refer to its special courses, a usage partly reflecting the participation of both American- and English-trained lecturers in the school’s early days. But this usage also reflects the era in which the school was founded: its formative years coincided with the high point of closeness or common views on legal issues on the two sides of the Atlantic. See Richard A. Cosgrove, *Our Lady of the Common Law: An Anglo-American Legal Community, 1870-1930* (1987).

53. *The Comparative Law School of China, Annual Announcement 1930-31*, at 7 [hereinafter 1930 Announcement]; course lists in student files, Shanghai Municipal Archives, Q245-273 ff.; Sun, *supra* note 40, at 189-91.

54. Nance, *supra* note 13, at 76. Even the classes of 1927 and 1928 had almost all their classes and examinations in English, according to graduates of those years. Interview in Taipei (July 29, 1987).

55. As late as 1946, the Anglo-American faculty numbered sixteen, including not only Chinese teachers trained in the United States but also two Americans (Judge Milton Helmick and Blaine Hollimon). 1946 Yearbook, *supra* note 21.

56. According to Dean Blume, the case method replaced the textbook method in 1922 or 1923. Nance, *supra* note 13, at 76. It was George Sellert who introduced casebooks and the case method to the CLS. Interview in Hong Kong (Nov. 10, 1993). Students were required to brief all the cases, stating the facts, issues, judgment and reasons, and they found it very difficult. Interview in Taipei (July 29, 1987); Interview in Shanghai (Sept. 19, 1992). The CLS approach stood in marked contrast to that of other law schools, which might occasionally offer common law courses but taught in Chinese and employed civil law teaching methods to do so.

good English and their insider's understanding of common law systems.⁵⁷

B. *Academic Standards*

In his 1923 essay, Dean Blume stressed the widespread lack of standards then prevailing in many Chinese law schools. Poor teaching, inadequate textbooks and the admission (even graduation) of unqualified students were all said to be common problems, not only during Blume's tenure as dean but even after tighter supervision by the Nationalist government over course requirements, standards of instruction and educational facilities brought some improvement.⁵⁸ Blume thought the solution was to raise entrance requirements to completion of at least two years of college, which the CLS did. Although a few students were admitted on the basis of an entrance examination, the two-year requirement was rarely waived,⁵⁹ and the school later introduced its own preparatory program (*yuke*) to ensure a higher standard of pre-law college training.⁶⁰

During the mid-1930s, the preparatory program required courses in modern history, sociology, political science, economics, psychology and logic.⁶¹ The "idea was that a lawyer should know something about everything," so students had to study a broad range of courses before they embarked on their professional training.⁶² Shelley Sun argued that such subjects formed the basis of law study and were therefore necessary for a true understanding of law itself. He thought that economics was the most important supplementary course for law students because the economy formed the basis for the legal system and the law had concrete

57. Interview in Taipei (July 30, 1987).

58. The Joint Office of the Educational and Cultural Organizations of China, Higher Education in China 2-4, 12-13 (n.d.).

59. Blume, *supra* note 6, at 310; student files, 1918-27 graduates, Shanghai Municipal Archives, Q245-273. The files show that CLS administrators did indeed check applications to see that all entrance requirements were met.

60. The University's pre-legal course consisted of either two or three years of social science and other courses; if the full three years of study were completed, the student could obtain both a B.A. and an LL.B. After two years of the pre-legal course, the student could also transfer to the first year of the Law School but would obtain an LL.B. only. Soochow Law School, Sili Dongwu Daxue Falu Xueyuan Yuanzhang [Regulations of the Soochow Law School] 14 (1930-31) [hereinafter CLS Regulations].

61. Sun, *supra* note 40, at 188.

62. Interview in Shanghai (Nov. 24, 1992).

links with land, inheritance and labor problems. Philosophy and logic he saw as the necessary foundation for legal reasoning.⁶³

At the same time, Sun proposed raising entrance requirements even further, believing it to be the inevitable trend at American law schools.⁶⁴ Other CLS faculty members agreed, but at that time the school was still requiring five years of study (two years of college plus three years of law school) instead of the four years prescribed for government-supported institutions,⁶⁵ and the proposal proved impossible to implement.⁶⁶ The CLS and University administration did, however, for years resist all suggestions to reduce the length of their program, which in their view would have meant a lowering of standards.⁶⁷ It was not until the end of the 1930s that the school was compelled by government decree to introduce the standard four-year course of study.⁶⁸ Moreover, although the numbers fluctuated from year to year, many students during the late twenties and early thirties had already obtained a first degree before entering the Law School.⁶⁹

63. Sun, *supra* note 40, at 13-18.

64. Sun, *supra* note 40, at 92-95. He was right. The 1922-1945 period in the U.S. was marked by an ever-rising commitment to higher standards in legal education by the AALS and the American Bar Association (ABA). Stevens, *supra* note 20, at 172-74. By 1937, for example, the ABA had adopted the requirements of two years of college study and three years of full-time or four years of part-time study at a law school that had a library of at least 7,500 volumes, a minimum of three full-time professors and a student-faculty ratio of no more than one hundred to one. *Id.* at 179. But the CLS was still able, before war-time conditions, to meet most of those requirements.

65. During this period, law was taught in departments or colleges (or "schools") of universities (*daxue*), or at independent colleges/institutes (*xueyuan*). Law study ordinarily constituted a four-year program at the undergraduate level, with introductory and general courses given in the first year. Most law colleges had several departments, including political science, economics or accounting as well as law, and they granted the LL.B. degree for completion of studies in any of their departments. Hugh Chan [Chen Sheau], *Modern Legal Education in China*, 9 *China L. Rev.* 142, 143-46 (1936).

66. Following the American model would have meant a total of seven years of study, which was simply too long a program for most students.

67. President's Report to the Board of Trustees of Soochow University (1936), United Board Archives, No. 271/4312.

68. 1937 Ministry of Education order dated October 19, 1937, requiring the CLS to institute a four-year day program commencing with the first and second-year students then enrolled at the school, Shanghai Municipal Archives, Q245-30.

69. See *infra* pp. 28-29. Adopting the four-year program meant that most students were admitted directly from middle school to an undergraduate course of study, which necessarily resulted in some lowering of standards. The students were younger, they had less work experience and, although there were exceptions, in general their English was not as good as that of the earlier students. A late-1940s student recalled how he struggled through the cases in his Anglo-American law courses; at first he could hardly understand them at all. Interview in Hong Kong (Apr. 7,

Equally important to the Law School and the University was the maintenance of standards once students had been admitted. According to Sun, law schools often admitted large numbers of students for budgetary reasons but rarely enforced attendance requirements. If 100 students registered, said Sun, probably only fifty or sixty—not necessarily the same ones—attended any given class from day to day, but all would be permitted to graduate.⁷⁰ But the CLS was no diploma mill; students were indeed required to attend class most of the time and to maintain satisfactory standing in their courses or they could be asked to leave.⁷¹ Sun cited the example of his own class: although eighty-four students began the program, in the end—owing to the strict coursework—only twenty-eight graduated.⁷² Yearbooks and class lists lend some support to his assertion, consistently showing more students enrolled than ever finished the course; CLS files are also full of student petitions for supplementary examinations or reinstatement after their suspension for poor marks.⁷³

Another issue relating to standards was the timing of classes. CLS classes were held in the late afternoon and early evening (ordinarily from 4:30 to 7:30, until 1937), which allowed ambitious Shanghai students to work and to attend school at the same time. But this practice had required special permission from the Ministry of Education after 1928 and continued to be a matter of concern to the University, which believed that teaching at night was “not the most desirable arrangement.”⁷⁴ The University administration wished to switch to day

1993). Moreover, with only four years to cover the required curriculum, the program could offer—or at least require—less in the way of comparative and foreign law courses for the students. Most commentators would therefore agree that general student standards were lower during the forties than during the twenties and thirties; that was certainly the view of one thirties graduate who returned to teach at the CLS in the forties. Interview in Shanghai (Nov. 25, 1992).

70. Sun, *supra* note 40, at 97.

71. CLS Regulations, *supra* note 60, at 17 ff.

72. Sun, *supra* note 40, at 99. This seems an unusually small percentage to finish, however.

73. The 1930 Announcement, *supra* note 53, for example, lists ninety-six students in the class of 1931, but seventy-eight graduated; the class of 1932 graduated seventy-six students but ninety-two are listed in that announcement. Of course, some students could not finish for financial reasons, and others graduated but fell behind their original class. It was only during the war years of the 1940s that very large numbers—hundreds and hundreds—of students dropped out. Student files, Shanghai Municipal Archives, Q245-402 to Q245-410, Q245-417 to Q245-421.

74. Soochow University, President's Report for the Year 1933-34, at 11, United Board Archives, No. 271/4312 [hereinafter President's Report]. The Ministry of Education opposed the operation of night schools and had pressured Shanghai night schools to close on a number of grounds, including their failure to offer extracurricular activities, to carry out military exercises and to fully supervise students (because they did not usually live on campus). Sun, *supra* note 40, at

classes, and in 1933-34 the CLS initiated a separate day section. This approach had to be abandoned, however, when government regulations restricted enrollment in law study and there were too few students to support both sections; it was not until the 1940s that the CLS was consistently able to maintain both day and evening sections.⁷⁵

As a CLS graduate himself, Shelley Sun did not believe evening classes posed any real obstacle to providing quality education, and his fellow students were quick to assert that the Law School was “not just a night school.”⁷⁶ He conceded the disadvantages of holding night classes but still argued that evening sessions were appropriate to China’s social needs: the country was poor, universities could not expand their enrollments sufficiently, and the Depression had forced many students to abandon full-time education. Moreover, law students were often working in courts or legal offices already, so their practical experience meant they had less need for special extracurricular activities. If the degree program was lengthened or students had already completed some university training (as at the CLS), Sun believed high standards could still be maintained. Indeed, based on his own experience, CLS graduates who had worked and studied at the same time were more successful in their careers than the graduates of most day schools.⁷⁷

Finally, as part of its efforts to raise legal standards, the Law School introduced a graduate program in the late 1920s. Its Research Institute (*Yanjiusuo*), one of the few in China, offered a two-year program of courses and research leading to the LL.M. degree.⁷⁸ Shelley Sun was a strong advocate of graduate training in China because he thought it would make it possible to train specialized legal talent, to foster law teaching and to stimulate interest in legal research and learning generally. While he acknowledged the accomplishments of those

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75. As reflected in student files, Shanghai Municipal Archives, Q245-286 ff.

76. The evening schedule was only a “convenience of scheduling for the teachers.” Interview in Taipei (July 29, 1987). Others viewed it as a night school, however. Interview in Taipei (July 26, 1987); Interview in Taipei (July 31, 1987). The CLS did in some respects resemble proprietary law schools in the U.S., although the school’s model was always the better national law schools so many of the faculty had attended. The Law School’s standards were higher than at many of the proprietary schools, even if it filled some of the same social roles. Stevens, *supra* note 20, at 75-76.

77. Sun, *supra* note 40, at 103-07.

78. Nance, *supra* note 13, at 82. At times, it was the only law school to do so. Chan, *supra* note 65, at 146. During the 1930s and 1940s, only four to five law schools were authorized by the government to offer graduate law programs. Education Yearbook, *supra* note 3, at 574-76.

who studied abroad (and had done so himself), he also noted that China could not afford to send everyone overseas for further training. In any event, he thought studying in China would make students more familiar with the situation in their own country. Although not many students planned to teach or to engage in research, those who wished to do so needed opportunities in China; otherwise, even students returning from abroad had nowhere to pursue their research interests.⁷⁹

C. *Ethical Standards*

The third problem facing law schools, according to Dean Blume, was related to the moral character of judges and lawyers, a critical issue in a society lacking a long tradition of an independent legal profession bound by ethical rules. In Blume's view, this situation had been exacerbated by the low standards of professional behavior tolerated during the 1910s.⁸⁰ The national lawyers regulations and local bar association regulations did contain some rules of professional conduct, and, considered together, these rules no doubt provided simple guidance for lawyers.⁸¹ But some Chinese lawyers as well as educators believed that the system was inadequate and therefore advocated the enactment of a more general "legal ethics law" to raise the moral standards of the legal profession.

The Shanghai lawyer Liu Zhen, for example, argued in his 1934 book on legal ethics that such a law was essential if China wished to "improve its judiciary, receive the true benefits of the 'lawyer system' and increase the trust of society in lawyers." The reasons for his concern were clearly stated throughout the book: he wished to distinguish China's modern lawyers from its traditional pettifoggers and the bad practices for which they were notorious. Despite the potentially vital role lawyers could play in the judicial system, Liu feared that the layman would find it difficult to make that distinction. Only the enforcement of ethical

79. Sun, *supra* note 40, at 80-82. Few students pursued that option, however. Overall, the CLS awarded only thirty-one master's degrees in law: fourteen in the decade 1928 through 1937, one in 1944, and the remaining sixteen in the postwar years, 1947-51. Eighty-four percent (twenty-six students) were CLS graduates. Student files, Shanghai Municipal Archives, Q245-319.

80. Blume, *supra* note 6, at 310-11.

81. See, e.g., *Provisional Regulations on Lawyers*, *supra* note 5; Shanghai Lushi Gonghui Zhanxing Huize [Provisional Regulations of the Shanghai Bar Association], in Liu Zhen, *Lushi Daode Lun* [Lawyers' Ethics] app. at 21-32 (1934).

standards would make that possible—hence the necessity for an ethics law and its propagation in law schools.⁸²

Blume thought the solution to the low moral standards was the teaching of ethics and the stressing of moral values along with the teaching of law.⁸³ Certainly, the school's religious character was prominent during its early years, when many of the students and faculty were Christian and ties with the University were particularly close. Throughout Dean Blume's tenure, courses in both "Christian Ethics" and "Legal Ethics" were required of all students. After 1928, however, the government discouraged the teaching of Christianity, and religious instruction could no longer be made compulsory at government-registered schools.⁸⁴ The CLS therefore took on an increasingly secular character, and as classes expanded fewer students were Christian or products of the mission schools.

Nevertheless, the Law School's influential teachers continued to emphasize the ideals and ethics of the profession, and the CLS continued to offer ethics courses when few other schools did so.⁸⁵ Echoing Dean Blume's concerns about the moral standards of the profession, Shelley Sun argued that legal ethics should be a required first-year course; he thought that students should be introduced to the topic at the beginning of their studies, regardless of whether they ever intended to practice. Although Sun recognized that teaching legal ethics could not guarantee the production of ethical lawyers, he thought that law students should at least be given some idea of their true mission and their responsibilities to society.⁸⁶

Charles Rankin, the school's founder, also emphasized this aspect of legal education when in 1949 Dean Sheng asked him to restate the reasons for the Law School's founding. "Lawyers," he replied,

are naturally and rightly leaders of the people. . . . They should lead in opposing corruption and upholding virtue. With skill and judicial wisdom they should be quick to discern the

82. Liu, *supra* note 81, at 3-5.

83. Blume, *supra* note 6, at 310-11.

84. Interview in Shanghai (July 30, 1990). The CLS offered a course on "Hebrew Law" from time to time as a substitute (and a way of evading the government restrictions). *Id.*

85. Ethics and Legal Ethics were offered as second-year electives during the 1930s. Sun, *supra* note 40, at 191.

86. *Id.* at 33-34. He noted with approval the strict standards of bar associations in the U.S., and the possibility that lawyers could be disbarred for violations of legal ethics.

approach of public danger, and instant and courageous in opposing it. And as counsel of the people and advocates before the court, their course should be such that on whatever side they may be, their sole purpose is to render all possible assistance to the litigant and the court in arriving at a just and righteous decision.⁸⁷

How could the lawyer achieve those goals? “[H]e should not only seek skill and learning, but he should be a man of unspotted character, of unquestioned integrity.” “Our purpose,” Rankin concluded, “was, with God’s help, to try to help in making Christian men and women, Christian lawyers.”⁸⁸ Long after the CLS had ceased to teach or emphasize Christianity, it still honored Rankin’s general intention through its emphasis on legal ethics and a principled profession.

D. Student Activities

A similar concern for professional competence, comparative study and social responsibility was reflected in the wide variety of student activities organized and encouraged at the CLS. All students, for example, were required to participate in the moot court, introduced in 1921 and described in the student yearbook as one of the “new and unique features” of schoolwork that year. The sessions, which were held every two weeks, followed the procedure of the regular Chinese courts, the Shanghai Mixed Court, the U.S. Court for China or even the American judge and jury system. Students played the roles of the attorneys, witnesses and jurors, and lawyers, judges and faculty members served as the judges for the sessions.⁸⁹ Holding such formal sessions was unusual for the time, according to Shelley Sun, since most schools paid little attention to practical exercises.⁹⁰ Sun also advocated the establishment of legal aid societies to be run by students, in order to give them actual experience in legal work, and during the 1940s the Law

87. Letter from Charles Rankin to Dean Sheng (Mar. 12, 1949), Shanghai Municipal Archives, Q245-399.

88. *Id.*

89. Soochow University, *The New Atlantis*, at 144d (1922).

90. Sun, *supra* note 40, at 111. At the CLS, however, students participated in moot court for three years and were graded on their performance. Student files, 1918-27 graduates, Shanghai Municipal Archives, Q245-273.

School did introduce a legal aid society (*falu qiuzhu she*) for its students.⁹¹

A more enduring activity was the publication of the CLS law journal, which was edited by the students under the supervision of a faculty editorial board. Their quarterly journal was actually composed of two publications, one in English (*The China Law Review*) and the other in Chinese (*Faxue Zazhi*). Most contributors were CLS students, faculty and graduates, but practicing lawyers and judges from the Chinese and foreign bars in Shanghai also submitted articles.⁹² The journal's policy, declared in the inaugural issue, was both ambitious and consistent with the CLS approach to law study: its first purpose was to "introduce the principles of foreign laws to China, and to acquaint foreign countries with the principles of Chinese law." The English articles would therefore be concerned with Chinese law and the Chinese articles with foreign law.⁹³

The second purpose of the journal was to "facilitate a comparative study of these principles of law," so the comparative method of the investigation of law was to be emphasized; the editors argued that this approach would constitute the best way for China to establish its own laws. The third purpose was to "extend widely in China knowledge of these principles as a preparation for legal reform," since it was claimed that no journals devoted solely to legal matters were then published in China. In general, the editorial policy was "not merely to restate the present law, but also to show what the law ought to be."⁹⁴

The English-language journal consequently published a variety of articles on such diverse legal topics as "The Nature and Origin of Law," the "History of Judicial Reform in China" and "The Registration of Corporations." Editorials, book reviews, texts of recent speeches and notes on current events appeared as regular features, and the journal often carried translations of Chinese court cases as well as cases decided by the Mixed Court and the U.S. Court for China. It published English

91. Sun, *supra* note 40, at 113-14; clipping from *Xinwen Bao* (Feb. 4, 1947), Shanghai Municipal Archives, Q245-268. A doctor without experience might kill someone, but if a lawyer lacked experience, Sun said, the consequences might be much worse, since the resulting mistakes would affect society as a whole. Sun, *supra*.

92. As a review of the journals' tables of contents shows. *The China Law Review* was republished by Oceana Publications in 1975 and is therefore available in many American law school libraries.

93. Editorial, 1 *China L. Rev.* 33 (1922).

94. *Id.* at 33-34.

translations of major new laws then being promulgated, together with comments and analyses of the legislation. The Chinese journal carried a similar range of articles and also produced a series of issues devoted to topics of particular importance, such as legal education and comparative constitutional law.⁹⁵

In addition to the journal and moot court, student yearbooks show CLS students engaged in a variety of other activities, both inside and outside the Law School. In the early twenties, students participated actively in Shanghai-wide groups as well as in their own student government. Students were regularly sent as representatives to the Shanghai Student Union, and Pao-li Tsiang (Jiang Baoli, class of 1922) served as the union's president in 1921.⁹⁶ Many of Shanghai's outstanding practitioners began their activities as students at the CLS. Eugene Y.B. Kiang (Jiang Yiping, class of 1923), for example, served as editor-in-chief of the law journal, class president, student body president, general manager of the yearbook, and chairman of the legislative body of the Shanghai Student Union. The yearbook praised his "skill as a public speaker" and described him as a "born lawyer"—so it is perhaps not surprising that he later became a leader of the Shanghai Bar Association.⁹⁷

IV. THE LAW SCHOOL FACULTY

Rankin's original plan was to use lawyers and judges from the foreign concessions and Chinese returned students to lecture part-time, essentially creating a volunteer faculty.⁹⁸ The early instructors were therefore drawn from the ranks of the Shanghai international bar and included many Americans. Besides Judge Lobingier and Dean Blume, some of the more notable teachers included H.C. Mei, George Sellet, Stirling Fessenden, T.R. Jernigan and Norwood F. Allman, all members

95. The January and March 1934 issues of *Faxue Zazhi*, for example, published thirty-six articles on different aspects of Chinese and comparative legal education.

96. The Student Body of the Comparative Law School of China, *The Woolsack* [no pagination] (1923) [hereinafter *Woolsack*]; 1924 *Woolsack* [no pagination], *supra*; student files, 1918-27 graduates, Shanghai Municipal Archives, Q245-273.

97. 1923 *Woolsack*, *supra* note 96.

98. Instructors were later paid for their services.

of the American bar in Shanghai.⁹⁹ The distinguished Dr. Wang Chung-hui (Wang Chonghui), a deputy judge of the permanent Court of International Justice and translator of the German Civil Code into English, and Tung Kang (Dong Kang), who served as chief justice of the Supreme Court and later as Minister of Justice, also taught at the CLS during the early years.¹⁰⁰

Although most of the original Law School teachers were foreign, the faculty was increasingly “localized” as more Chinese instructors joined the faculty during the 1920s. When, as part of a “long-cherished policy,” the Law School moved in the late twenties towards the employment of full-time instructors and administrators, it particularly sought out its own graduates. Anticipating the Nanjing government’s regulations requiring that Chinese rather than foreigners serve as administrative heads even in private colleges, the University in 1927 named Robert C.W. Sheng (Sheng Zhenwei, from Shanghai) as the first Chinese dean (*jiaowuzhang*) and John C.H. Wu (Wu Jingxiung, from Ningbo) as the school’s first “principal” (*yuanzhang*), a newly created position.¹⁰¹ Most other new faculty members, including those who had been educated in north China, also came from Jiangsu or Zhejiang, and from then on the school’s administration was dominated by this group, particularly those from Shanghai and Suzhou.

Both Sheng and Wu were CLS graduates who had completed their studies at American law schools (Northwestern University and the University of Michigan, respectively) and both took an active role in the legal developments of the Nationalist government in Nanjing. Dean Sheng (class of 1924), who later served as principal himself, was

99. Born and educated in the U.S., Mei taught at the CLS from its opening in 1915 until 1925. He also served as chief defense counsel in the May Thirtieth case of 1925. 1936 *Who’s Who in China* 187-88 (China Weekly Review 5th ed.). Jernigan was the former U.S. Consul General in Shanghai and author of *China in Law and Commerce* (1905). Fessenden served as secretary general of the Shanghai Municipal Council (the governing body of the International Settlement); Sellett was district attorney for the U.S. Court for China; and Allman was the author of *Shanghai Lawyer* (1943). Sellett was the longest-serving of all non-Chinese teachers at the Law School. The CLS had foreign teachers for much of its life; even in the late 1940s there were still two Americans teaching part-time on the faculty. 1946 Yearbook, *supra* note 21.

100. 3 *Biographical Dictionary of Republican China* 340-41, 376-78 (Howard L. Boorman and Richard C. Howard eds., 1979) [hereinafter *Biographical Dictionary*]. Both Wang and Tung received LL.D. degrees from the Law School in 1924 (Lobingier had received one the previous year). 1946 List, *supra* note 21.

101. Nance, *supra* note 13, at 80-81. Wu served in that office from 1927 until 1938; Sheng served as dean from 1927 to 1940 and as principal from 1942 to 1950. Dean Sheng’s handwritten notes (on file with author).

associated with the law school until its closure; the son of a Methodist clergyman in Shanghai, he received his B.A. from Soochow University in 1921 before entering the CLS. Dr. Wu (class of 1920) was a research fellow at the Universities of Paris and Berlin as well as at Harvard Law School. No doubt the Law School's most famous graduate, he later served as a judge of the Shanghai Provisional Court but is better known as a drafter of the 1946 Chinese Constitution.¹⁰²

The Law School was able to attract (and retain) other talented and prominent graduates, most of whom had also studied abroad. D.S. Chen (Chen Tingrui, class of 1920), a leading member of the Shanghai bar, taught at the Law School on his return from graduate study at Michigan. Although he entered law practice shortly thereafter, he continued to teach part-time at the CLS, co-founded its alumni association and served on its board of trustees, remaining closely connected with the school during most of his career in Shanghai. Shelley Sun returned to Shanghai after receiving his doctorate from Northwestern; a prominent legal educator during the 1930s, he often wrote on education issues and served as an editor of the school's legal journal.¹⁰³

Although few women taught on the regular law faculty (and none before World War II), in the late forties the Law School also began employing its own women graduates. In 1947, the faculty included five women, four of whom were CLS graduates (three in law and one in accounting). Of the five, however, only two taught law¹⁰⁴: Cecilia Sieu-ling Zung (Cheng Xiuling, class of 1934) and Grace M.T. Tan (Tan Mingde, class of 1937). Both joined the faculty in 1946 after obtaining their J.S.D. degrees from New York University Law School, Tan in 1939 and Zung in 1942. Tan, the daughter of a lawyer and a legal practitioner herself, taught criminology at the University and English literature at Shanghai's St. John's University before becoming an instructor at the CLS.¹⁰⁵ Zung received her B.A. and M.A. degrees from Columbia University (in 1938 and 1939) and, according to her classmates, was

102. Interview in Shanghai (July 30, 1990); *Who's Who in China*, supra note 99, at 40; *Biographical Dictionary*, supra note 100, at 421.

103. They were joined by Henry H.P. Chiu (Qiu Hanping, class of 1927), Arthur Yao (Yao Qiyin), Ao Sen (E Sen) and Henry K.F. Ai (Ai Guofan), all class of 1928; Fei Ching (Fei Qing, class of 1929); Joffre Lu (Lu Jun, class of 1930); and Hugh Chen (Chen Sheau, i.e., Chen Xiao), who received his LL.M. from the CLS in 1937.

104. Two of the others taught English and the third taught accounting.

105. Based on forms completed by CLS teachers in 1946-49, Shanghai Municipal Archives, Q245-83, Q245-84.

probably the best-known woman graduate of the Law School, partly because of the numerous degrees she had obtained and the breadth of her interests. (Besides practicing law in Shanghai, she had taught mathematics at the city's elite McTyeire Girls School and later taught Chinese opera at colleges in the U.S.).¹⁰⁶

The goal of employing a predominantly full-time faculty proved harder for the Law School to realize, however, as even most CLS graduates taught only part-time.¹⁰⁷ In his 1933-34 annual report, the University president noted the appointment of the former judge Tsao Chieh (Cao Jie) as the first full-time CLS professor, as well as two more full-time resident officers (a proctor and an associate dean) in addition to the dean.¹⁰⁸ But other records indicate that most instructors at the CLS continued to be practicing lawyers or judges¹⁰⁹ and some were lecturing at several schools each year. In the administration's view, having such a high proportion of the faculty teaching on a part-time basis created obvious disadvantages; few teachers, it was feared, could devote their full attention to the school.¹¹⁰

Despite the administration's concerns, however, many part-time instructors taught at the CLS for lengthy periods and actively involved themselves in its affairs. Many were also excellent teachers and, when the Law School introduced regular day sessions, students often preferred to attend the evening sessions because the instructors were practicing lawyers and judges.¹¹¹ Popular part-time teachers included Francis Liu (Liu Shifang) and C.H. Chang (Zhang Zhengxue), both of whom joined the faculty in the late 1920s and taught there for over twenty years. After receiving his LL.B. from Yale, Liu pursued advanced study in France and Germany for three years. A prominent lawyer in Shanghai, he taught

106. *Id.*; Interview in Shanghai (Nov. 24, 1992); *Who's Who in China (1940 Supp.)*, *supra* note 99, at 11.

107. The heavy reliance on part-time teachers posed a difficult problem for many schools, not just for the CLS. Shelley Sun depicted a very commercialized teaching profession during the 1930s. Because salaries were so low, teachers had to take on multiple posts; some taught as much as five or six hours a day and twenty to thirty hours per week. Many teachers saw no need to specialize, lecturing in any subject required. Sun, *supra* note 40, at 63-67.

108. President's Report, *supra* note 74, at 10-11.

109. In 1941, for example, there were five full-time and thirty part-time professors; in 1943 in Chongqing, there was one full-time professor (the dean) and twenty-five part-time teachers. Those admittedly were unusual circumstances, but it seems that the CLS was still far from having a full-time faculty. Soochow University files, United Board Archives, No. 269/4294.

110. President's Report, *supra* note 74, at 11.

111. Interview in Hong Kong (Apr. 7, 1993).

German civil law as well as Anglo-American law.¹¹² C.H. Chang, a graduate of Beiyang University, had served as both a judge and procurator in Shanghai before going into law practice there. He too specialized in civil law.¹¹³

In any event, according to its graduates, the Law School's "standard of teaching was high and the teachers strict" and in general its "teachers were very good."¹¹⁴ In interviews, former students have expressed their appreciation for both the common and civil law faculty, and for their foreign as well as Chinese teachers ("many foreign teachers devoted their whole lives to the school").¹¹⁵ Blume, for example, was "honest, sincere, kind and energetic"; Sellett very "eloquent and clear-minded"; and the American-trained common law teachers "could really talk."¹¹⁶ Tsao Chieh, the author of important books on Chinese property and domestic relations law, was "very popular" and his views "progressive."¹¹⁷

One 1940 graduate praised his CLS teachers for avoiding the "stuff the duck" method of teaching (just cramming the students' heads with facts) he thought was often employed in Chinese schools today. He also admired the "independent" approach of the civil lawyers, who distributed fewer materials than the common lawyers, thereby placing greater responsibility for class preparation on the students themselves.¹¹⁸ One thirties graduate particularly admired Judge Helmick, who taught him contracts. The judge used a casebook and worked through it very slowly, but "what he got out of the cases, the principles and policies, made it very interesting." If you studied with him, moreover, "you really learned how to read the cases yourself—that was the important thing."¹¹⁹

112. *Who's Who in China*, supra note 99, at 169; 1946 Yearbook, supra note 21.

113. CLS teacher files, Shanghai Municipal Archives, Q245-187.

114. Interview in Taipei (July 29, 1987); Interview in Shanghai (Oct. 12, 1992); Interview in Shanghai (Nov. 24, 1992).

115. W.B. Nance, the former president of Soochow University, and George Sellett, for example. Interview in Shanghai (Nov. 24, 1992).

116. Interview in Taipei (July 29, 1987); Interview in Shanghai (Nov. 24, 1992).

117. Interview in Shanghai (Nov. 25, 1992).

118. Interview in Shanghai (Sept. 29, 1992).

119. Interview in Shanghai (Oct. 12, 1992); Interview in Shanghai (Nov. 24, 1992).

V. THE LAW SCHOOL'S STUDENTS

A. *Native Place and Shanghai Ties*

The Law School was in many respects a national institution, with a national reputation and a student body drawn from throughout China, as Dean Sheng and other alumni all attest.¹²⁰ Its 1918-49 graduates came from sixteen provinces and a large number of cities and towns, with the later and larger classes increasingly diverse. The Law School was also well-known outside China's borders; during the twenties and early thirties in particular it attracted a number of overseas Chinese from Hong Kong and Southeast Asia.

Nevertheless, in other respects the CLS remained a regional institution, with its greatest appeal to students from the prosperous, densely populated and commercially-oriented south and east China. Few CLS students were from north China and indeed the vast majority of 1918-49 graduates cited native places (*jiguan*) in Jiangsu (44%), Zhejiang (28%) and Guangdong (13%) provinces, with 93% of the students drawn from just five provinces. CLS students also tended to come from certain cities, with Shanghai, Suzhou, Ningbo, Wuxi and Hangzhou the most frequently listed on their application forms.¹²¹

Moreover, whatever their native place, many CLS students had attended middle school or college in Shanghai; of the first ten graduating classes (1918-27), for example, 30% had studied at a local college before entering the Law School,¹²² and by the 1940s a high percentage of Jiangsu and Zhejiang students (ranging from 65-94%) had actually grown up in Shanghai. After graduation, these students also tended to make their careers locally; thus, the Law School's 1936 survey found the

120. Interview in Shanghai (July 30, 1990).

121. The statistics cited herein are based on information contained in the files for the approximately 1250 students graduating from the CLS from 1918 through 1949, Shanghai Municipal Archives, Q245-273 to Q245-299. The materials, including student application forms, are more complete for some years than for others, and the information required (or supplied) also varied over time. Complete files are available for graduates only, not for all students who attended the CLS, but I believe most of my conclusions would apply equally to CLS students in general and not to graduates alone. The percentages from Jiangsu and Zhejiang hardly vary from class to class.

122. Student files, 1918-27 graduates, Shanghai Municipal Archives, Q245-273. In 1931 and 1932, nearly 40% of the students entered the CLS directly from the Soochow pre-law program, and another 20% were studying in Shanghai schools. CLS Regulations, *supra* note 60, at 50-60. These figures include all members of the class at that time, not just those who went on to graduate.

majority of its graduates still in Shanghai, whether teaching, working in banks or other companies, or engaged in law practice.¹²³

B. Previous Education

Many students from the first ten graduating classes (1918-27) at the CLS had ties with mission schools: one-third had attended Soochow University for at least one year, and 20% had studied at other Christian colleges, such as Shanghai Baptist College, Hangchow Christian College or St. John's University.¹²⁴ During the next ten years (1928-37), when classes were larger, CLS graduates came from a broad range of institutions of every description, from the very best to the highly questionable.¹²⁵ The seventy-six members of the class of 1932, for example, had studied at a total of twenty-six colleges or institutes, and many of them had attended two or three colleges before enrolling at the CLS.¹²⁶ Nevertheless, during this period a core of students still entered the CLS directly from the University or had attended the Law School's preparatory program, and their numbers increased during the 1930s as the CLS tried to standardize college preparation with the introduction of its own program.¹²⁷

The percentage of college graduates also fluctuated over time, partly as a result of changing admission requirements. Few students in the first ten classes were college graduates when they entered the CLS, but during the late twenties and early thirties (1927-33) from 20% to 50% of the

123. Sili Dongwu Daxue Faxueyuan Tongxue Lu [Student Register of Soochow Law School] (1936), Shanghai Municipal Library [hereinafter 1936 List].

124. During the school's first few years, almost half its graduates came from the Nanyang Institute or Beiyang University, which in some respects resembled the CLS. Shanghai's Nanyang Institute (later Communications University), for example, maintained high standards of training for the new technical professions and "offered the sons of the less well-to-do an opportunity to move up." Wen-hsin Yeh, *The Alienated Academy: Culture and Politics in Republican China, 1919-1937*, at 96 (1990). The statistics in this paragraph are based on information contained in the 1936 List, *supra* note 123, as supplemented by student files, 1918-27 graduates, Shanghai Municipal Archives, Q245-273.

125. For an excellent analysis of the different cultural styles, social composition and standards of Republican tertiary institutions, see Yeh, *supra* note 124, at 59-116.

126. This not only resulted from the admission of larger and more diverse classes but also reflected the growing number of colleges and universities in Shanghai and environs during the twenties and thirties, which apparently allowed students to "forum-shop" around the city. Judging from these records, it seems to have been a common phenomenon. See Yeh, *supra* note 124, for a discussion of Shanghai colleges and universities.

127. For example, 45% of the 1933 graduates had studied at Soochow, after the preparatory program was moved there in 1929.

school's students had already obtained a first degree.¹²⁸ By the late thirties, very few CLS students were already graduates—though they still met the school's entrance requirement of two years of college study. The class of 1941 (entering in 1937), however, was for the first time admitted directly from secondary schools to the new four-year program mandated by the educational authorities. Thereafter, the occasional student had a college degree or a few years of college, but the majority came directly from middle school.¹²⁹

C. *Soochow Connections*

Students often had closer or more personal connections to the Law School than attendance at the University or its middle schools. Three graduates of the thirties and forties, for example, were CLS employees when they enrolled, including Charles Y.S. Yu (Yu Youxin), who served as the school's librarian from 1931 until 1952 and received his LL.B. in 1946.¹³⁰ Teachers at the CLS received free tuition for their children, and a number of faculty members, such as John Wu, D.S. Chen, T.F. Wu and C.H. Chang, sent their sons or daughters to study there. CLS alumni also sent their children (e.g., the son of a 1931 graduate in 1937, the daughter of a 1926 graduate in 1940) or, more commonly, were followed by nephews, cousins or other "relatives" (*qinqi*). At least ten groups of siblings or cousins studied together, graduating in the same class or only a few years apart, including brothers (1921; 1926), sisters (class of 1943; 1940 and 1945), uncle and nephew (1941) and cousins (1927, 1930 and 1934)—and they sometimes went on to practice together after graduation.¹³¹

128. Based on information contained in student files, Shanghai Municipal Archives, Q245-273 to Q245-279.

129. Beginning with the class of 1931, student application forms began to ask for the student's middle or preparatory school, although the data are not complete until later in the thirties. As with universities, a very broad range of middle schools was represented. Each year contained a core of students from one of the three Soochow middle schools or another mission school, and others were graduates of elite private schools like St. John's and McTyeire. Nevertheless, many students were products of cheaper (and in many cases less prestigious) provincial middle schools.

130. Student files, 1946 graduates, Shanghai Municipal Archives, Q245-292. The other two were members of staff (*zhiyuan*); they obtained their degrees in 1931 and 1936. Id. at Q245-277, Q245-282.

131. Based on information contained in student files for those years, Shanghai Municipal Archives, Q245-273, -276, -280, -287, -289, -291. The true number of CLS relatives and other connections was probably much higher than these files reveal, however, as applicants were not asked to list relatives who attended the CLS on their application forms and full student files are

D. Religion

Despite its origins in the Christian missionary movement, the Law School never required that its students be Christian, and even in its earliest days the CLS probably had a lower percentage of Christians than most other mission schools.¹³² Not surprisingly, however, many of the earlier students were Christian (virtually all Protestant though by no means all Methodist): at least 30% of the students graduating between 1918 and 1929 identified themselves as Christian on their application forms. Though most of these had converted while attending missionary primary or middle schools, as indicated in their “history of conversion,” a sizeable percentage reported that they were “born in a Christian family” or were “Christian for several generations,” or that “grandfather was a pastor.” In later years, however, the numbers of such students fell considerably, as the school expanded and students came from a broader range of middle schools; thus only 12% of the students graduating from 1932-1945 listed themselves as Christians.¹³³

available only for graduates, not all students who ever attended. Interviews also suggest that it was common. Actually, many students maintained a long, even life-long connection to the University, its middle schools and the Law School. The CLS teacher T.F. Wu, for example, graduated from the University (class of 1921) and one of its middle schools; all three of his sons also graduated from the University (his daughter attended the CLS). He himself taught at the University’s middle school in Suzhou, at the University and at the CLS, serving as dean of the arts college in the late forties. Interview in Shanghai (July 28, 1993). Zhang Mengbai’s career followed a similar pattern: a 1926 graduate of the University, he had also attended its primary and middle schools. He taught world history at the University and the Law School for many years and continues his affiliation with the PRC’s Suzhou University (which occupies the old Soochow University campus). Interview in Hong Kong (Dec. 9, 1993). It is no wonder that CLS teachers and graduates felt such loyalty to their school—though such close ties could also be a disadvantage. See Jessie Lutz, *Materials on the China Christian Colleges at Harvard University*, paper presented at the International Symposium on Historical Archives of pre-1949 Christian Higher Education in China (Dec. 9-11, 1993) (on file with author).

132. One 1920s student thought it was “preferable” for a student to be a Christian (and he became one), but he stressed that it was not necessary to do so. According to graduates of the 1930s and 1940s, most CLS students were not Christian and no pressure was placed on them to convert—religion simply was not an issue. Interview in Taipei (July 29, 1987); Interview in Shanghai (Sept. 15, 1992); Interview in Shanghai (Nov. 24, 1992). By comparison, 88% of the students at Beijing’s Yenching University were Christian in 1924, and in 1935 the number was still 31%. Philip West, *Yenching University and Sino-Western Relations, 1916-1952*, at 126 (1976).

133. Student files, Shanghai Municipal Archives, Q245-273 to Q245-295. For several years (1930-31) the student application forms failed to ask the applicant’s religion, so those years cannot be included in the calculations here.

E. Women Students

The earliest classes were all male (the University's English motto, also used by the Law School, was "Unto a fullgrown man"). In 1928, however, the University formally became co-educational, and the first woman graduated from the CLS three years later.¹³⁴ Overall, women comprised only 12% of the CLS graduates from 1931 to 1949 and only 10% of the 1918-49 total. But their numbers grew in the Law School's later years, from almost 9% of law graduates during the thirties (1931-40) to 18% during the forties (1941-49), an increase vividly reflected in yearbook photos and other less formal student records, as well as the employment of the first women on the regular law faculty.¹³⁵

The Law School's smaller and newer accounting section, however, attracted a far higher proportion of women from its inception; about the same number of women graduated in accounting during 1941-49 as in law, but they represented 38% of the total accounting graduates during those years. According to some sources, this was because accounting was considered a more appropriate course of study for women—with the result that accounting ended up with "too many girls."¹³⁶ The admission of more women to both the law and accounting sections in the forties and fifties led to many Law School marriages, but even during the thirties some classmates met and married as a result of their study together ("Soochow people liked to marry Sookchow people").¹³⁷

F. Family Background

The great majority of CLS students, both male and female, came from commercial or professional families, the group most likely to

134. Helen Clark, *Co-education at Sookchow University*, 3 *Tung Wu Magazine of Sookchow University* 86 (1935); 1936 *List*, *supra* note 123.

135. Student files, 1918-49 graduates, Shanghai Municipal Archives, Q245-273 to Q245-299.

136. Sookchow University Law School Accounting Department, *SUDECAC 1939-47* [no pagination] (1947) [hereinafter *Sudecac*]. Professor C.H. Chang sent two daughters through the CLS; the first graduated in law (class of 1940) and the second, who attended after the accounting section had been established, in accounting (class of 1945). Student files, 1940 and 1945 graduates, Shanghai Municipal Archives, Q245-286, Q245-291.

137. Interview in Shanghai (Aug. 14, 1993). A 1950 graduate was able to point out some five sets of classmates in his graduating class alone who married each other. Interview in Hong Kong (Apr. 7, 1993). Hugh Chen, a CLS teacher for many years, married a graduate of the accounting department. *Sudecac*, *supra* note 136.

appreciate the value of professional training and qualifications.¹³⁸ Throughout the thirties and forties, almost half (45%) of the school's graduates identified their family head's occupation as "business" or "commerce" (*shang*), 7% identified it as government (including customs and the post office) and more than 20% identified it as professional (including law, medicine, engineering and education). Within these categories, a wide variety of other occupations was represented, including editors, journalists, YMCA employees and pastors, and even a few workers, farmers, policemen and railway employees. "Business" also encompassed a diverse set of commercial occupations, ranging from tea merchants, silk traders, bank directors and managers of foreign hongts to small businessmen or company clerks.

The legal profession itself was well represented during the thirties and forties. In every graduating class but one from 1930 through 1949 at least one student identified his family head's occupation as "lawyer." Overall, more than 10% of the graduates during those years had a legal professional of some kind for a family head, half of them lawyers; many other students named lawyers, usually a relative or close connection, as their guarantors. Women CLS graduates had a slightly stronger connection to the legal profession, with almost 10% listing a lawyer as family head and another 8% naming a lawyer-relative as their guarantor.¹³⁹ Remarkably, by the late thirties—only twenty-five years after the formal recognition of the private legal profession—some 20% to 30% in each class of CLS graduates had lawyers for family heads or guarantors.¹⁴⁰

Some CLS students clearly came from wealthy families, a fact reflected in the photographs they submitted with their applications (e.g., young women in silk gowns holding fur coats or other well-dressed students posed in front of large residences) and in accounts of students driven to school in chauffeured limousines. A few thirties graduates listed no occupations for themselves in the school's 1936 directory—they were "too rich" to work, according to their classmates, and had studied law as

138. Application forms for the classes of 1930 and thereafter (that is, those entering the school from 1927) asked for the occupation as well as the name of the applicant's family head (*jiazhang*). The information on family heads is much less complete during the 1940s, however.

139. Some women had even closer connections to the profession. One 1940 graduate, for example, listed both her father and her aunt as lawyers. Student files, 1940 graduates, Shanghai Municipal Archives, Q245-286.

140. Particularly for the graduating classes beginning in 1937, as reflected in student files for those years, Shanghai Municipal Archives, Q245-283 ff.

a form of “self-protection” for their property, not because they had to earn a living.¹⁴¹

Most students, however, were not the products of such moneyed backgrounds, and professional status was no guarantee of wealth, as some professionals (particularly educators) were notoriously ill-paid. But it was not necessary to be rich to attend the Law School, despite its relatively high tuition and the miscellaneous fees and charges it also levied.¹⁴² The school offered scholarships on the basis of merit and need, as shown by the many approvals of student petitions noted in their files, and the school’s administrators in general tried to help in cases of financial hardship because, in the words of one graduate, “it was a missionary school.”¹⁴³ The work records of students are incomplete, but they do at least suggest that for many the CLS offered real social mobility, allowing them to move on to better, different or higher-paying positions after graduation.¹⁴⁴

The Law School’s convenient location in Shanghai and in particular its late afternoon and early evening schedule also meant that students could support their studies through part-time or even full-time work, and many did so. Some found jobs after their admission to the CLS, such as the 1934 graduate who began his long career with the Jiaotong Bank as a law student, or the 1940s student who taught English at the

141. 1936 List, *supra* note 123; Interview in Shanghai (Nov. 24, 1992).

142. Tuition was much higher at private schools, which relied very heavily on tuition for financing, than at publicly-supported institutions. Lutz, *supra* note 8, at 167-68; Yeh, *supra* note 124, at 196-97. Tuition at the Law School was \$80 per year in 1919-20, and \$100 per year in 1926-27. By the early 1930s, tuition had risen to \$60 per term and was further supplemented by library, student organization, lecture materials, journal and miscellaneous fees totaling \$15.50. Sili Dongwu Daxue Faxueyuan Yilan [A Guide to Soochow University Law School] 1932-33, at 20-21 (1932). One 1927 graduate accurately remembered his tuition in an interview forty years later because it was so “expensive”: \$100 (he was earning \$30 per month at the Commercial Press, where he worked during the day). Interview in Taipei (July 26, 1987). Textbooks were also expensive in the earlier years, because they were imported from the United States or England. Interview in Taipei (July 29, 1987).

143. Interview in Shanghai (Nov. 24, 1992); student files, Shanghai Municipal Archives, Q245-273 ff.

144. Application forms for the classes graduating from 1930 through 1947 asked for the applicant’s occupation. The data are incomplete, but comparisons with positions they later held (as given in the 1936 List, *supra* note 123) show that in a number of cases, the graduates clearly moved into better positions. A few are dramatic: for example, a 1933 graduate who worked at the CLS and listed his father as a worker went on to become a part-time lawyer and insurance company employee. Primary and middle school teachers often became lawyers (classes of 1931, 1932, 1934, 1935, for example), or court clerks became lawyers (class of 1932). Student files, Shanghai Municipal Archives, Q245-277, -278, -280, -281. See also Lutz, *supra* note 8, at 302-03.

University's middle school (though he found it a "heavy load").¹⁴⁵ Others with jobs already were drawn to the Law School because they could attend classes after regular office hours. A few of the latter applicants had advanced degrees and established careers, usually in higher education: one 1931 graduate taught chemistry at two Shanghai universities and enrolled in the CLS under a pseudonym and two Fudan professors (husband and wife) went through the CLS together in the thirties (class of 1933).¹⁴⁶

More typical Law School applicants during the twenties and thirties were junior clerks in banks or insurance companies, primary school teachers and post office employees, or even law clerks or legal interpreters, who yearned to further their education or to improve their prospects.¹⁴⁷ One such young man (class of 1931) wrote a touching series of letters in support of his application for admission despite his failure to meet some school requirements:

[M]any students whose families prove incapable to support their children to pursue collegiate education on monetary or other questions, have suspended their further career. This always makes me heartbroken when pondering one of Chinese proverbs, saying: Those who like to study, cannot study; those who can study, do not like to study. . . . In struggling for a better living and to accomplish obligations of being a citizen, I though bound to work, still deem a higher education is necessary for me.

Day by day I have been looking for the school which most meets my requirements and has nothing affecting my working hours in C.P.O. [China Post Office]. Although correspondence schools are in some degree helpful, I find difficulties in discussion of hard problems. Your university,

145. Interview in Taipei (Aug. 3, 1987).

146. Student files, Shanghai Municipal Archives, Q245-279.

147. In some classes a large percentage (as high as 23% in 1931) gave some current occupation (other than the usual "student"). Twelve students during those years listed occupations relating to law: legal interpreters (2), court clerks (3), the Shanghai Municipal Council legal department (2), and clerks or typists in law offices (5). Student files, Shanghai Municipal Archives, Q245-276 to Q245-293.

Soochow Comparative Law School, I have verily appreciated it since a copy of your catalogue has been perused.¹⁴⁸

An obvious result of the reliance on outside jobs was that CLS students worked very hard, and most apparently expected to do so. In the twenties at least, they were “serious and ambitious students, they didn’t gamble or fool around.”¹⁴⁹ One 1936 graduate, in petitioning the Law School for extra scholarship help, apologized that he could only work part-time to support his study because he had to spend mornings with his readers (he was blind).¹⁵⁰ Those without outside jobs often engaged in other study during the day, like the 1928 graduate who attended Fudan University at the same time as the CLS and commuted between the two schools on the motorcycle his father bought him for that purpose. Nevertheless, some students still found time for extracurricular activities despite their jobs and other study. Eugene Y.B. Kiang, for example, was able to combine all three during the twenties: he worked part-time, attended Fudan classes to complete his B.A. degree—and still managed to chair most Law School activities for his class.¹⁵¹

G. *Reasons for Law Study*

The social composition of Law School graduates outlined above suggests the reasons they wished to study law and, more particularly, to enroll at the CLS. It is true that many early students came from mission schools, were Christian or had special ties with Soochow, and those factors continued to be relevant to some degree. More important factors, however, were family background and native place, which remained remarkably consistent from the school’s founding through the end of the forties. That the CLS held special appeal for the Jiangnan commercial and professional sector is also borne out by the testimony of Law School graduates themselves.

Thus, many students were directed towards law by their families, who wished them to have a solid profession. According to one 1928

148. Student files, Shanghai Municipal Archives, Q245-277. Dean Sheng admitted him on examination, and his records show that he subsequently did well at the CLS.

149. Interview in Taipei (July 29, 1987).

150. Student files, Shanghai Municipal Archives, Q245-282.

151. Interview in Taipei (July 31, 1987); student files, Shanghai Municipal Archives, Q245-273. Some parents insisted that their children concentrate on their studies (at the CLS only) and would not allow them to work. Interview in Hong Kong (Apr. 7, 1993).

graduate, his family stressed education and getting a skill; law was a “way to make a living.” A thirties student, the son of a doctor, was advised by his father that only three professions were “for people” (the rest were only “for money”): clergymen, doctors and lawyers, in that order (lawyers placed last because they “told lies”). Since the son seemed ill-suited to the first two professions, he chose law by default. A late forties student wanted to become a singer, but his parents disapproved and refused to permit it, on the grounds that “such people led immoral lives.” In the end the son studied law like his father, and his brothers also followed practical professions in banking and accounting.¹⁵²

Others chose law themselves, like the 1927 graduate who studied law because his father “was a jurist” and he shared an interest in the subject, or the thirties student who thought law might play an important role in Chinese society. A 1947 graduate was “very argumentative,” always getting into disputes with his classmates, so he thought law practice might be a good career for him.¹⁵³ Other students were less focused, like the thirties graduate who was “going to do science but got tired of memorizing scientific rules”—until someone suggested that he try law instead (and his older brother was already a lawyer). Or the late forties student who did not do well enough on his mathematics examinations to pursue a career in science; if he chose literature he was afraid he would only be able to teach, so he “thought he would try law and then he could always become a judge.”¹⁵⁴

Why did they attend the CLS and not one of the many other law programs in the Shanghai area? For essentially three reasons (besides its evening hours): its good reputation, the professional nature of its training and its specialty in comparative and Anglo-American law. According to its graduates, the CLS had “high standards,” it was “the best school in Shanghai,” much better than the two law colleges and even Fudan University’s law department, not to mention various “wild chicken” schools in the city. The Law School, moreover, was “very famous,” “famous and prestigious,” it had “very high status and its graduates were

152. Interview in Taipei (July 29, 1987); Interview in Taipei (Nov. 9, 1989); Interview in Shanghai (Nov. 18, 1992).

153. Interview in Taipei (July 27, 1987); Interview in Shanghai (Sept. 29, 1992); Interview in Shanghai (Nov. 25, 1992).

154. Interview in Shanghai (Oct. 12, 1992); Interview in Hong Kong (Apr. 7, 1993).

well known lawyers and judges”—one thirties graduate said he came all the way from Guangzhou just to study there.¹⁵⁵

Equally important was the kind of training the CLS offered. During the 1920s and 1930s, the CLS was the “only truly professional law school,” known for its “practice orientation,” whereas the others were “just undergraduate colleges.”¹⁵⁶ So one 1943 graduate enrolled because he wanted to practice law and the CLS “was the place for that.”¹⁵⁷ (Fudan “really only trained you to become a judge,” while the CLS trained its students for broader careers.¹⁵⁸)

The CLS, moreover, provided its students with the best preparation for Shanghai’s international commercial environment. It was the only school that taught Anglo-American law, enabling students to practice in the International Settlement after graduation and, by all accounts, to dominate that practice. Lawyers in Shanghai “had to have that background and the language to deal with the Shanghai Municipal Council higher-ups.” Many students, moreover, were “already working for insurance, banking and other companies where English was very important, so they thought Soochow’s course would be useful to them.”¹⁵⁹ Even later students were attracted by the school’s specialty, including its emphasis on foreign languages and foreign relations.¹⁶⁰

H. Study Abroad

Besides offering its own graduate program, the Law School also encouraged students to go abroad for further study. In the early days, students “all wanted” to study overseas: it was their “warm hope,” though financially out of the question for most of them.¹⁶¹ A foreign

155. Interview in Taipei (July 29, 1987); Interview in Shanghai (Sept. 19, 1992); Interview in Shanghai (Nov. 25, 1992); Interview in Shanghai (July 30, 1990).

156. Interview in Shanghai (Nov. 20, 1992); Interview in Shanghai (Nov. 24, 1992).

157. Interview in Taipei (July 30, 1987).

158. Interview in Shanghai (Nov. 20, 1992).

159. Interview in Taipei (July 30, 1987); Interview in Taipei (Aug. 3, 1987); Interview in Taipei (Nov. 9, 1989); Interview in Shanghai (Sept. 15, 1992). Some students attended the CLS through accidents of geography. One forties student, for example, was also admitted to Fudan University, which as a public institution would have been cheaper than the CLS. But Fudan was a long way from his home and the CLS only fifteen minutes away by bus, so his father paid the extra tuition and sent him to the Law School. Another lawyer did *not* attend the CLS for similar reasons—it was too far away from his home and his father thought the area was unsafe during the war. Interview in Hong Kong (Apr. 7, 1993); Interview in Hong Kong (Feb. 8, 1993).

160. Interview in Shanghai (Nov. 18, 1992).

161. Interview in Taipei (July 29, 1987).

J.S.D. degree meant not only a prestigious title but higher status and greater recognition upon their return to China (automatic promotion to associate professor during the 1930s, for example).¹⁶² As a result, at least 15% of CLS graduates from 1918 through 1936 (a total of ninety-three students) obtained advanced law degrees from overseas institutions or were engaged in study abroad at the time of the school's 1936 survey.¹⁶³ In the late 1940s, Dean Sheng estimated that, despite all the difficulties of going abroad during the war years, 10% of the Law School's graduates overall had studied in the United States or Europe.¹⁶⁴

Not surprisingly, given the school's close ties with American schools and teachers, most CLS graduates pursued their advanced study in the United States, although a handful also went to England, France or Germany. Students graduating between 1918 and 1936 attended more than fifteen institutions, including Harvard, Yale, Indiana and the University of Washington, but the most popular were New York University (twenty-one students, the largest number at any school), the University of Michigan and Northwestern University.¹⁶⁵ For many students, CLS connections played the major role in determining their destination: Michigan was Dean Blume's school as well as Dr. Sellett's alma mater, and many students were given recommendations for NYU.¹⁶⁶ Religion was at least partly the reason for some early choices; thus, Dean Sheng, a devout Methodist, chose Northwestern because of its Methodist origins as well as his desire to study evidence with Wigmore.¹⁶⁷ Cost was also an important factor. Indiana, for example, "was a good school and relatively inexpensive" (\$800 for all a student's expenses in the mid-thirties),¹⁶⁸ and one 1943 graduate attended Yale rather than Harvard because the latter refused to recognize all his CLS

162. Interview in Shanghai (Nov. 23, 1992). That situation has its parallels in the PRC today, with a foreign law degree often more highly valued than a Chinese one and returned students placed on an accelerated promotion track.

163. 1936 List, *supra* note 123. My thanks to Albert Lam Kwok Ming for his help in organizing these statistics. By contrast, as noted above, only fourteen students obtained LL.M. degrees at the CLS during the 1928-37 years.

164. Interview with Dean Sheng in *Xinwen Bao* (Feb. 4, 1947), Shanghai Municipal Archives, Q245-268.

165. 1936 List, *supra* note 123. My thanks to Albert Lam Kwok Ming for these calculations.

166. Interview in Taipei (July 29, 1987).

167. Interview in Shanghai (July 30, 1990).

168. Interview in Shanghai (Nov. 23, 1992).

credits and would have required extra coursework (and therefore greater expense).¹⁶⁹

I. *CLS Careers*

The Law School's graduates pursued a wide range of careers in government, business, teaching, the judiciary, and even church work, news reporting and translation.¹⁷⁰ But by far the largest group of CLS graduates became lawyers. Unlike Beijing's Chaoyang Law School,¹⁷¹ with which it was often compared, the CLS was known for training legal practitioners rather than legal officials ("Chaoyang produced judges, but Soochow produced lawyers"),¹⁷² and the school's statistics bear this out. According to the 1936 directory of the Law School's first eighteen graduating classes (1918-35), 41% were engaged in full-time and another 8% in part-time practice,¹⁷³ and even in later years the percentage of graduates in private practice remained high.¹⁷⁴ CLS graduates

169. Interview in Taipei (July 30, 1987).

170. 1936 List, *supra* note 123; 1930 Announcement, *supra* note 53.

171. According to a popular saying, "In the north there is Chaoyang, in the south there is Soochow" (*Bei, Chaoyang, nan, Dongwu*). For more on Chaoyang, see Yu Fengxiang, *Sili Chaoyang Xueyuan* [Chaoyang College], in Zhang Qiyun, *Zhonghua Minguo Daxue Zhi* [University Annals of the Republic of China] 179-81 (1953). It was also said that "without Chaoyang Law School the judiciary could not be staffed." Except for a minority who went into teaching and research, almost all its graduates entered the judicial service. *Id.* at 181.

172. Interview in Shanghai (July 30, 1990); Interview in Shanghai (Oct. 12, 1992). According to Dean Sheng, only 10% of the Law School's graduates became judges; the other 90% went into practice, where they could make more money. Interview in Shanghai (July 30, 1990).

173. Many part-time practitioners were law teachers but others worked for banks or insurance or other companies. Companies often allowed their employees to engage in outside practice, and many teachers needed to do so in order to supplement their salaries. It was also sometimes difficult for outsiders (e.g., Cantonese without connections in the city) to break into full-time practice or to set up on their own in Shanghai. Interview in Shanghai (Nov. 23, 1992); Interview in Shanghai (Nov. 24, 1992).

174. These percentages are based on the careers of the 587 then living graduates for whom there is career information in the 1936 List, *supra* note 123. The list almost certainly underreports CLS graduates who ever practiced law, as legal professionals tended to change jobs frequently and to enter practice after engaging in further study or other legal work. Thus, the percentage of practicing lawyers in the earlier classes is somewhat higher: 55% of the first ten classes (1918-27) were in full- or part-time practice in 1936. Moreover, these figures do not include the eight CLS graduates working as lawyers for the Shanghai Municipal Council in 1936. By contrast, 4% of CLS graduates were law teachers, 3% were judges, almost 16% held other government positions and 11% held jobs in banking, business or industry. *Id.* My thanks to Albert Lam Kwok Ming for help with these statistics. Despite all the changes the school's program underwent in later years, 39% of the school's graduates were still engaged in full-time practice in 1948. Soochow University School of Law, Gexiang Tongji Tubiao [Miscellaneous Statistical Charts] 63 (n.d.), Shanghai

specialized in both civil and criminal law, and (according to a 1930s student) if you wanted someone to represent you, “you would never look for a Chaoyang graduate, but only for someone from Soochow.”¹⁷⁵

Although they practiced law in some eighteen cities, most CLS practitioners remained in Shanghai: a total of 84% in 1936.¹⁷⁶ In that year, therefore, the school’s graduates comprised more than 18% of the Shanghai Bar Association’s membership, even though the CLS was only one of the city’s many law schools.¹⁷⁷ CLS graduates, moreover, were among the most active and distinguished members of the association; D.S. Chen, Loh Ting-kuei (Lo Dingkui, class of 1920) and Eugene Y.B. Kiang, in particular, served on its governing committees for many years.¹⁷⁸ Other famous Shanghai lawyers during the twenties and thirties—all qualifying as “important lawyers” (*da lushi*), at least according to their advertisements—included Chang Nieh-yun (Zhang Nieyun), class of 1918; Herbert Chung-tao Lee (Li Zhongdao), Afman S.C. Hsi (Hsi Yafu) and Ruchin Tsar (Cai Liucheng), class of 1924; and Tsai Ju Tung (Cai Rudong), class of 1925.¹⁷⁹

VI. CLS CONTRIBUTIONS

The Comparative Law School of China was very much the product of its particular place and time: Shanghai and the foreign concessions between the two world wars, during a critical period in the establishment of a new legal system. It flourished during the “Nanking Decade,” when China was most oriented to the West, and it succeeded because it offered practical and creative opportunities ideally suited to its era. But it offered something more and its influence has therefore survived beyond the circumstances that formed it.

Municipal Archives, Q245-60.

175. Interview in Taipei (Nov. 9, 1989).

176. 1936 List, *supra* note 123.

177. Shanghai bar membership is based on the statistics contained in 1936 Greater Shanghai Annual, *supra* note 10, at G237.

178. 1935 Greater Shanghai Annual, *supra* note 10, at G121; 1936 Greater Shanghai Annual, *supra*, at G236; 1937 Greater Shanghai Annual, *supra*, at G169.

179. These graduates all had entries in the major who’s who directories of the day. Chen, Chang, Lee, Hsi and Tsai appeared in successive editions of Who’s Who in China; and Jiang, Lo and Lee appeared in Men of Shanghai and North China. Who’s Who in China, *supra* note 99, at 13, 35, 84, 138 and 231; George F. Nellist, Men of Shanghai and North China 195, 206, 246 (1933). For examples of their advertisements, see The Students of Soochow University, The Soochow Annual (1929).

A. *Initial Contributions*

Largely because of its emphasis on standards, ethics and the comparative approach, Soochow Law School made significant contributions to China's emerging legal system during the Republican period. First and most obviously, the CLS trained many lawyers, judges and law teachers, producing more than 1,200 graduates by 1949.¹⁸⁰ According to Hugh Chen, in the Law School's first twenty years alone, seventy-two graduates were teaching in colleges and universities, four were presidents of law schools, thirty-one were serving as judges, forty-one were working in the government, and seven were members of the Nationalist government's Codification Commission.¹⁸¹ Some alumni have emphasized the role of CLS graduates as law teachers and drafters,¹⁸² while others name the distinguished judges associated with the school.¹⁸³ But CLS graduates tended to be versatile, serving in a number of capacities during their careers, and many occupied prominent positions in the legal world, as who's who directories of the day all attest.

Of course, numbers alone cannot tell the whole story. Other law schools could claim more graduates: Chaoyang Law School, for example, graduated almost 10,000 students over a twenty-one year period, and other Shanghai law colleges had much higher enrollments than the CLS.¹⁸⁴ As noted above, however, the CLS trained lawyers rather than legal officials, and many students enrolled there because they hoped to enter law practice. From the school's founding through the 1940s, a very high proportion of its graduates actually did so, and they played an important role in the private legal profession, particularly in Shanghai.

180. 1946 List, *supra* note 21; student files, Shanghai Municipal Archives, Q245-273 to Q245-299.

181. Chan, *supra* note 65, at 148.

182. Stressing the role of graduates like John Wu, Robert Sheng, Shelley Sun, Henry H.P. Chiu, Ho Shih Chen, etc. Interview in Taipei (July 29, 1987).

183. According to Dean Sheng, for example, all China's judges who have served on the World Court were CLS graduates or teachers. Interview in Shanghai (July 30, 1990); Dean Sheng's handwritten list of CLS graduates and teachers (on file with author). Well-known CLS judges include Lloyd L.C. Char, Sherman J.K. Chang and Ni Zhengyu. The chief justice in Hong Kong, Sir Ti Liang Yang, attended the CLS for three years (1946-49), although he completed his legal education in England. Lindy Course, Top judge gets term extended, *S. China Morning Post*, Sept. 14, 1993, at 1.

184. Yu, *supra* note 171, at 181. See, for example, statistics contained in the 1935 Greater Shanghai Annual, *supra* note 10, at N18-19.

Equally important is the contribution made to legal scholarship by the CLS style of research and teaching; its law journal, for example, published articles of a high standard, and it remains a valuable resource for the study of that period. Whatever its limitations, moreover, the case method of teaching employed in many courses was more creative than the recitation of lectures and rote learning that often prevailed in law schools of the day. Certainly, CLS graduates still speak highly of the school's teaching fifty and even sixty years later. Moreover, beyond the active participation by many CLS teachers in drafting legislation, their general encouragement of scholarship and discussion of important national issues played a useful role during the 1920s and 1930s.

While the Nationalist government undoubtedly wished to raise educational standards, it also sought to control legal education (and ultimately lawyers), as Qing officials had earlier attempted to eliminate pettifoggers entirely. The authorities clearly viewed law as less important than science and technology—and even as dangerous and necessary to curb. By contrast, the CLS presented a different and broader view of legal education and the legal profession, one whose constraints were ethical and professional, and its teachers tried to demonstrate through their teaching and example the honorable nature of their calling. In so doing the Law School helped to introduce and to develop in China the idea of a modern legal profession, private and independent, with high standards of competence, ethical behavior and social responsibility. The CLS, moreover, imparted to its students a modern, outward-looking world view; it was above all that outlook and not simply the practical training they received that distinguished them from the quasi-professionals of the past.

B. The Post-1949 Legacy

But has the Law School left any more lasting legacy? After 1949, the CLS was suspect from the beginning, too foreign in origin and too closely linked to the bourgeoisie throughout its history (it “was very hard to find a Communist” at the CLS).¹⁸⁵ The Chinese laws it had taught

185. Interview in Shanghai (Nov. 20, 1992). Foreign connections proved totally unacceptable and indeed were interpreted as control over Chinese education by Americans and other foreigners. “During the more than 20 years under the Kuomintang rule, the United States strengthened its influence and control over Chinese education.” China Handbook Editorial Committee, *supra* note 31, at 7.

were all abolished, and within a few years of the Communist victory the school itself was closed. CLS connections also proved a liability for many graduates and teachers. Some, like Dean Sheng, had early problems: he was not only removed from his position but also declared a counterrevolutionary and sentenced to ten years of reform through labor in Gansu.¹⁸⁶ Hugh Chen, who was accused of being an American agent, also had a “very hard time” after 1949. Once a tall man who held himself erect, by the end of the Cultural Revolution he was bent over like an old man (“you could hardly recognize him as the same person”).¹⁸⁷

Many other alumni were mistreated during the 1957 Anti-Rightist movement or the 1966-76 Cultural Revolution years. One thirties graduate, for example, was branded a rightist and forced to “wear a cap” simply because he wrote an article arguing that guilt should be proved beyond a reasonable doubt.¹⁸⁸ A 1946 graduate who had studied in the United States was subjected to protracted “examination in isolation” and finally demoted to a street market to sell pork.¹⁸⁹ Some CLS graduates died early because they “suffered a lot during the Cultural Revolution”; others “could not stand it and killed themselves.”¹⁹⁰ By the early 1970s, therefore, the Law School had seemingly disappeared without a trace, its graduates punished and their training wasted.

Yet any assessment of the CLS must take account of its continued influence outside the mainland, particularly in Hong Kong and Taiwan, where the Law School’s graduates have by contrast prospered. Although the treaty port system was swept away forever in 1949, the internationalization of law and business has grown rapidly. In both territories the good English and solid legal foundation of CLS graduates, their practice orientation and genuine understanding of other systems have all proved advantages and enabled them to work in an increasingly international framework.¹⁹¹ In Taiwan, moreover, the Law School—along with much of what it represented—has survived, if in a

186. He was released after six years, on the intercession of Song Qingling, however. Interview in Shanghai (July 30, 1990).

187. Interview in Shanghai (Nov. 25, 1992); Interview in Shanghai (July 14, 1993).

188. Interview in Shanghai (Nov. 20, 1992).

189. Shop assistant returns to law school podium, *China Daily*, Mar. 8, 1983, at 3. He was later re-assigned to Nanjing University’s newly-established law department, where I taught with him in 1983-84.

190. Interview in Shanghai (Nov. 20, 1992); Interview in Shanghai (July 14, 1993).

191. Interview in Taipei (July 30, 1987); Interview in Taipei (Aug. 3, 1987).

somewhat different form. Although the majority of its graduates remained on the mainland after 1949, many others, particularly those most closely connected with the Nationalists, fled to Hong Kong or Taiwan. In 1951, members of the Soochow Alumni Association in Taiwan began the process of re-establishing the University, beginning with its preparatory school, and three years later CLS graduates succeeded in reviving their school as the Soochow University Law College. Since its restoration in Taiwan, the law college has continued to emphasize Anglo-American law; it still offers its students the choice of enrolling in either the civil law or the comparative law section, in which many of the courses are classified as Anglo-American law and are still taught in English.¹⁹² Its comparative approach has influenced other schools in Taiwan,¹⁹³ and the school's faculty have taken an active role in international legal issues, including Taiwan's relations with the mainland.¹⁹⁴

Even on the mainland, many of the Law School's graduates and teachers have now made a comeback from exile or retirement, and consequently the school's name and influence have also been revived in the PRC. Since the implementation of economic reforms and the open policy in 1979, CLS graduates have resurfaced at courts, law offices, universities and other institutions. Despite the passage of thirty or forty years, their legal training has stood them in good stead, enabling them to participate in the re-establishment of China's legal system.¹⁹⁵ The Law School's graduates have also returned to teach another generation; many younger lawyers trained during the eighties, particularly in

192. Course materials provided by the College of Law in Taiwan (on file with author); Soochow University Anniversary Catalogue (1982). CLS graduates were very actively involved in its refounding; D.S. Chen, Henry H.P. Chiu, Lloyd L.C. Char, J.K. Twanmoh all served on the early Board of Trustees. Arthur Yao and J.K. Twanmoh also taught at the School of Law. Bulletin of Soochow University (Taiwan School), 1952-53, United Board Archives, No. 269/4289.

193. CLS graduates and former teachers have taught at other law schools in Taiwan, where they were instrumental in introducing and teaching courses on the Anglo-American legal system. Interview in Shanghai (Nov. 24, 1992); Interview in Shanghai (July 28, 1993).

194. Chiang son for seminar, S. China Morning Post, Feb. 10, 1993, at 8; Angel Lau, Chiang's grandson gets warm welcome, The Standard, Aug. 23, 1993, at 10; Agnes Cheung, Plan to boost Taipei as hub for mainland laws, The Standard, Feb. 11, 1993, at 10.

195. Interview in Shanghai (Nov. 20, 1992); Interview in Shanghai (Nov. 24, 1992). Some qualified to practice law and began practice for the first time after 1979. Interview in Shanghai (Nov. 24, 1992); Interview in Shanghai (Aug. 2, 1993).

Shanghai, have had CLS teachers.¹⁹⁶ This suggests that the school has made a continuing contribution to legal education on the mainland as well as outside it—and that there may be greater continuity with the Republican period than scholars have previously thought.

VII. CONCLUSION

CLS files and yearbooks as well as interviews with its graduates all demonstrate that students and faculty alike thought their school unique and were very proud of it. Their strong attachment is not unusual, since many graduates of other missionary schools (and government institutions) have expressed similar loyalty to their own “mother schools” (*muxiao*).¹⁹⁷ In the Law School’s case, however, at least part of that feeling derives from its distinctive identity, including its emphasis on Anglo-American and, more broadly, comparative law.

Though it was based on a foreign model and taught foreign law, the Law School was not in the end simply a foreign institution. Like most other mission schools, the CLS had moved to Chinese administration, language and courses,¹⁹⁸ and it was always firmly rooted in Shanghai, where it provided avenues of social mobility for many ambitious and eager young people, just as its founder had foreseen. Admission to the Law School did not require a classical education, family connections or a great deal of money, but it opened the door to many opportunities in Shanghai’s commercial world. The Law School was above all a *Shanghai* institution, which in large part explains its success. Shanghai

196. CLS graduates may still be found at Peking University, Chinese University of Politics and Law and the Chinese Academy of Social Sciences in Beijing; and at the East China Institute of Politics and Law, the Shanghai Academy of Social Sciences and the Shanghai Institute of Foreign Trade in Shanghai. Dongwu Daxue Beijing Xiaoyou Hui Tongxun Lu [Address List of the Soochow University Alumni Association of Beijing] (1985); Dongwu Bijiaofa Jinxiu Xueyuan Zhaosheng Jianzhang [General Regulations on Enrollment of the Soochow Comparative Law Advanced Studies Institute] (1989) [hereinafter General Regulations]. CLS alumni still have high standards: when I asked a Chinese friend why he (unlike so many) made good use of footnotes, he replied that his strictest teacher, a 1940 CLS graduate, had always insisted on it.

197. St John’s University, for example. Marlowe Hood, *College’s old boy network leads way to world*, Sunday Morning Post, Dec. 18, 1988, at 17.

198. Unlike the more Westernized St. John’s University, Soochow University did register with both the Nationalist government and its predecessor, and it attempted to comply with official regulations applicable to universities and colleges. Lutz, *supra* note 8, at 264-65, 267-70.

may have been the “other China,”¹⁹⁹ but it was still China, and lawyers with special training had an important role to play there.

CLS graduates have now sought to revive their school in Shanghai, which is re-emerging as China’s commercial and financial center. In 1989 the Soochow Comparative Law Advanced Studies Institute (*Dongwu Bijiaofa Jinxiu Xueyuan*) obtained official approval to begin offering courses to specialized cadres engaged in foreign economic work or legal duties.²⁰⁰ That institution is currently a limited one, but the CLS model—high standards, a comparative approach and a broad understanding of other systems, all taught in China—may still have something valuable to offer as the PRC seeks to rebuild its legal system and to expand trade and investment with the outside world. Could the Law School, which in the words of former students was founded on a “whim” and refounded by a “fluke,”²⁰¹ now be reborn in Shanghai?

199. See Marie-Claire Bergere, *The Other China*, in *Shanghai* 1-34 (Christopher Howe ed., 1981).

200. More than a third of the originally listed faculty were graduates of the old CLS, and the Soochow Alumni Association has been active in running the Institute. General Regulations, *supra* note 196; Interview in Shanghai (July 14, 1993).

201. The “whim” was Charles Rankin’s. The Law School’s refounding was something of a “fluke” and was due in part to the intervention of Wang Chung-hui, the recipient of a CLS honorary degree who continued to serve on its board of trustees in Taiwan. Interview in Taipei (July 26, 1987); Interview in Taipei (Nov. 9, 1989). Other influential graduates of the University or its middle schools also pressed for its re-establishment in Taipei. Interview in Shanghai (Nov. 24, 1992); Interview in Shanghai (July 28, 1993).